

# **Proposed Land Development Code Amendments**

**Environmental Commission  
April 5, 2017**

# 44 Proposed Code Amendments

Watershed Protection Ordinance (WPO) clean-up	<b>36</b>
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# WPO Clean-up

- Clarify code requirements and correct inconsistencies identified post-WPO
- Revisions to:
  - Chapters 25-8/30-5
  - Chapters 25-7/30-4
  - Chapter 25-2, Planned Unit Development requirements for green building ratings
- 36 clean-up amendments
  - 25 clarifications consistent with historical interpretation
  - 11 changes to correct inconsistencies or meet intent of WPO

# WPO Clean-up

- Examples of clarifications:
  - Add definition of floodplain modification
  - Clarify that an ERI is required for projects using the redevelopment exception
  - Clarify that rooftop swimming pools are not excluded from impervious cover calculations
  - Clarify that impervious cover and water quality treatment exceptions only apply to listed roadway improvements
  - Clarify what site conditions trigger an ERI
  - Clarify requirements for wastewater disposal
  - Clarify requirements for floodplain modifications inside vs. outside of a CWQZ

# WPO Clean-up

- **§25-7-32, Erosion Hazard Zone (EHZ) analysis** 4
  - Require EHZ analysis within 100 feet of the ordinary high water mark of the Colorado River downstream from Longhorn Dam
- **§25-8-25, Redevelopment exception in urban and suburban watersheds** 7
  - Allow the redevelopment exception to be used if subdivision and site plan applications are filed concurrently



*= item number in Attachment B: Summary of Proposed Code Amendments*

# WPO Clean-up

- **§25-8-42, §25-8-341/342, Administrative variance for cut and fill for ponds**

- Allow cut and fill greater than 4 feet by right if necessary for function of pond and drainage infrastructure

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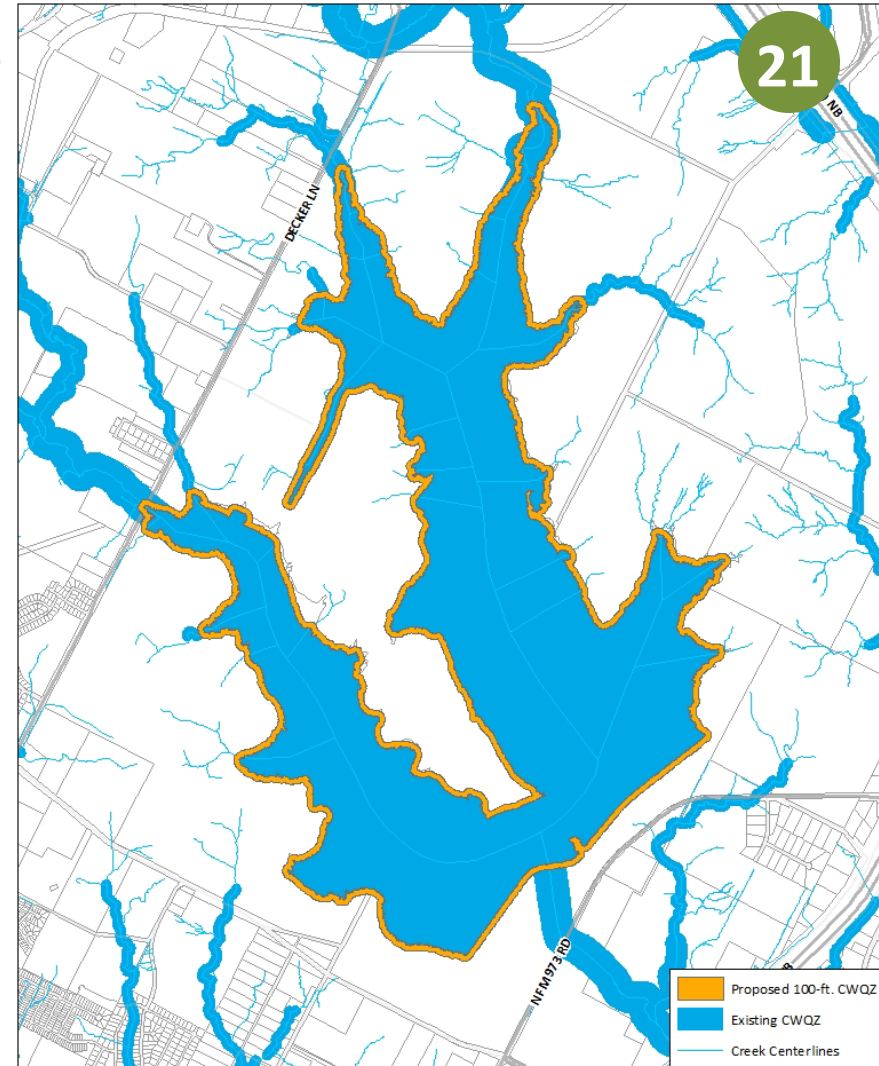
- **§25-8-92, Critical water quality zone (CWQZ) exemption for ditches**

- Add exemption for railroad right-of-way in addition to public roadway right-of-way

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# WPO Clean-up

- **§25-8-92, CWQZ for Lake Long**
  - Establish a 100-foot CWQZ from the shoreline of Lake Long



# Shoreline CWQZ for Lake Long

## §25-8-92, Critical Water Quality Zones Established

- (C) Critical water quality zones are established to include the inundated areas that constitute Lake Walter E. Long, Lake Austin, Lady Bird Lake, and the Colorado River downstream of Lady Bird Lake.
- (D) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, and Lady Bird Lake.
  - 1. The shoreline boundary of a critical water quality zone:
    - a) for Lake Travis, coincides with the 681.0 foot contour line;
    - b) for Lake Austin, coincides with the 492.8 foot contour line; and
    - c) for Lady Bird Lake, coincides with the 429.0 foot contour line.
  - 2. The width of a critical water quality zone, measured horizontally inland, is:
    - a) 100 feet; or
    - b) for a detached single-family residential use, 75 feet.



# Shoreline CWQZ for Lake Long

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- (D) Critical water quality zones are established along and parallel to the shorelines of Lake Travis, Lake Austin, ~~and~~ Lady Bird Lake, **and Lake Walter E. Long.**
  - 1. The shoreline boundary of a critical water quality zone:
    - a) for Lake Travis, coincides with the 681.0 foot contour line;
    - b) for Lake Austin, coincides with the 492.8 foot contour line; ~~and~~
    - c) for Lady Bird Lake, coincides with the 429.0 foot contour line; ~~and~~
    - d) for Lake Walter E. Long, coincides with the 554.5 foot contour line.**
  - 2. The width of a critical water quality zone, measured horizontally inland, is:
    - a) 100 feet; or
    - b) for a detached single-family residential use, 75 feet.

# WPO Clean-up

- **§25-8-261, Development in a CWQZ**
  - For development allowed in the outer half of the CWQZ, specify that the minimum setback is 50 feet from the shoreline along lakes and 100 feet from the ordinary high water mark of the Colorado River
  - Allow development associated with the Decker Creek Power Station to be located within the CWQZ
- **§25-8-262, CWQZ street crossings**
  - Change minimum spacing for collector street crossings to 900 feet for minor waterways

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# WPO Clean-up

- **§25-8-453, Water quality controls in 40% buffer**
  - Clarify that water quality controls are allowed in the 40% buffer in compliance with §25-8-213(C)(3)
- **§25-8-514, SOS regulated pollutants**
  - Remove total organic carbon from list of pollutants
- **§25-8-696, Endangered species notification requirements**
  - Require notification for the threatened Jollyville Plateau salamander

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# LUC Findings of Fact

- **§25-8-41, Land Use Commission findings of fact**
  - Revise language to better reflect intent and historical interpretation

## §25-8-41, Land Use Commission Variances

- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:
- 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;
  - 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;
    - 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; and
    - c) does not create a significant probability of harmful environmental consequences; and
  - 3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.



# LUC Findings of Fact

## Existing

- (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.

## Proposed

- (1) the requirement will deprive the applicant of a privilege ~~or the safety of property given to~~ **enjoyed by** owners of other similarly situated property ~~with approximately contemporaneous development~~ **subject to similar code requirements.**

# LUC Findings of Fact

## Existing

- (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;

## Proposed

- (a) is not ~~based on a condition caused~~ necessitated by the **scale, design, or construction** method chosen by the applicant to develop the property, unless the **proposed** development ~~method~~ provides greater overall environmental protection than is achievable without the variance;

# LUC Findings of Fact

## Existing

- (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; and

## Proposed

- (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~~; and

# Regulations Applicable to Agricultural Activities

- **§25-1-21, Definitions**

- Revise definition of development to clarify that development does not include removal of vegetation or cultivating the soil for agricultural operations
- Add definition of agricultural operations

# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

29) DEVELOPMENT means the construction or reconstruction of a building or road; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land.

Development does not include: [...]

- c) agricultural activity that is not prohibited by Section 25-8-321 (Clearing Of Vegetation); or



# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

- 29) DEVELOPMENT means the construction or reconstruction of a building or road; the placement of a structure on land; the excavation, mining, dredging, grading, or filling of land; the removal of vegetation from land; or the deposit of refuse or waste on land. Development does not include: [...]
- c) ~~agricultural activity that is not~~ removal of vegetation or cultivating the soil for agricultural operations, unless prohibited by Section 25-8-321 (Clearing Of Vegetation); or

# Regulations Applicable to Agricultural Activities

## §25-1-21, Definitions

5) AGRICULTURAL OPERATIONS means:

- a) producing crops for human food, animal feed, planting seed, or fiber;
- b) floriculture, viticulture, horticulture, or silviculture;
- c) raising or keeping livestock or poultry;
- d) wildlife management; and
- e) planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

# Regulations Applicable to Agricultural Activities

- **§25-8-211, Water quality control requirements**
  - Exempt agricultural improvements (like barns) from water quality control requirements if they are located in the desired development zone and impervious cover does not exceed 20% of gross site area

# BSZ Redevelopment Exception: The Basics

- Available to sites with existing commercial development
- Property gets to keep (but not increase) all existing impervious cover and development in creek and CEF buffers
- Sites with less than 40% impervious cover
  - Must use non-degradation (SOS) water quality controls
  - No mitigation land required
- Sites with greater than 40% impervious cover
  - Minimum of sedimentation/filtration controls required on-site
  - Must be mitigated by the purchase of off-site land to reach an overall impervious cover target of 20%

# Council Resolution 20121213-066

To improve redevelopment opportunities and environmental protection, consider:

1. Impact of expanding Redevelopment Exception to residential properties in and beyond the Barton Springs Zone;
2. Impact of partial site Redevelopment Exception; and
3. Other amendments that could encourage redevelopment while providing environmental benefits in and beyond the Barton Springs Zone.

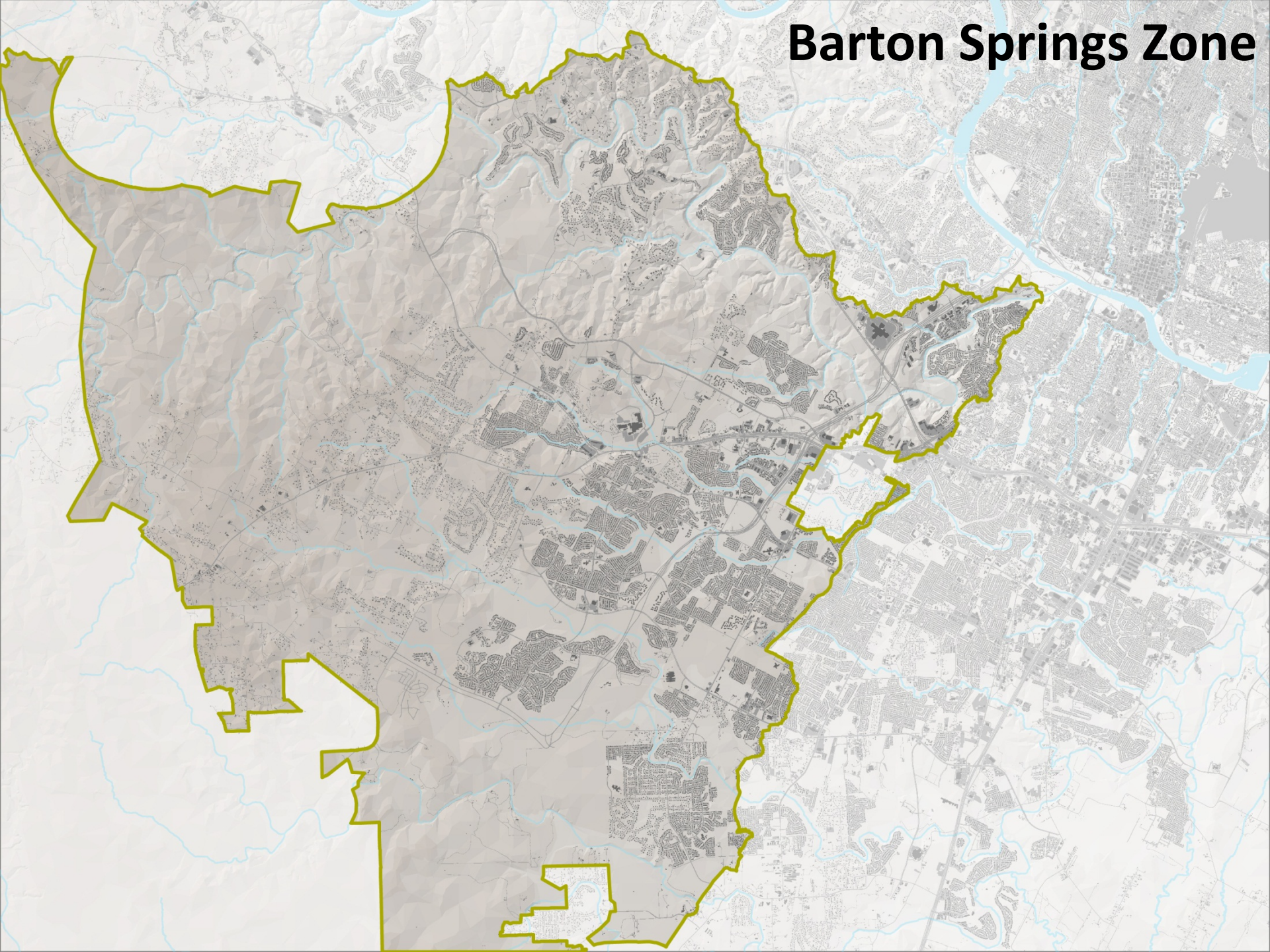


# BSZRE Amendments

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- **§25-8-26(A), Extend applicability to additional land use**
  - Allow BSZRE to be used for properties with existing residential development with greater than two dwelling units per lot (i.e., multifamily residential)
  - Require Council approval for properties with more than 25 existing (or proposed) dwelling units
- **Benefits**
  - Increase potential for water quality retrofits and preservation of open space
  - Requiring Council approval provides additional scrutiny for more intense projects

# Barton Springs Zone





# Commercial & Office

681 Acres

**1.0%**

of City BSZ Juris.\*

Permitted with  
Existing Ordinance

\* Percent of all land in the City of Austin's Barton Springs Zone Watersheds jurisdiction



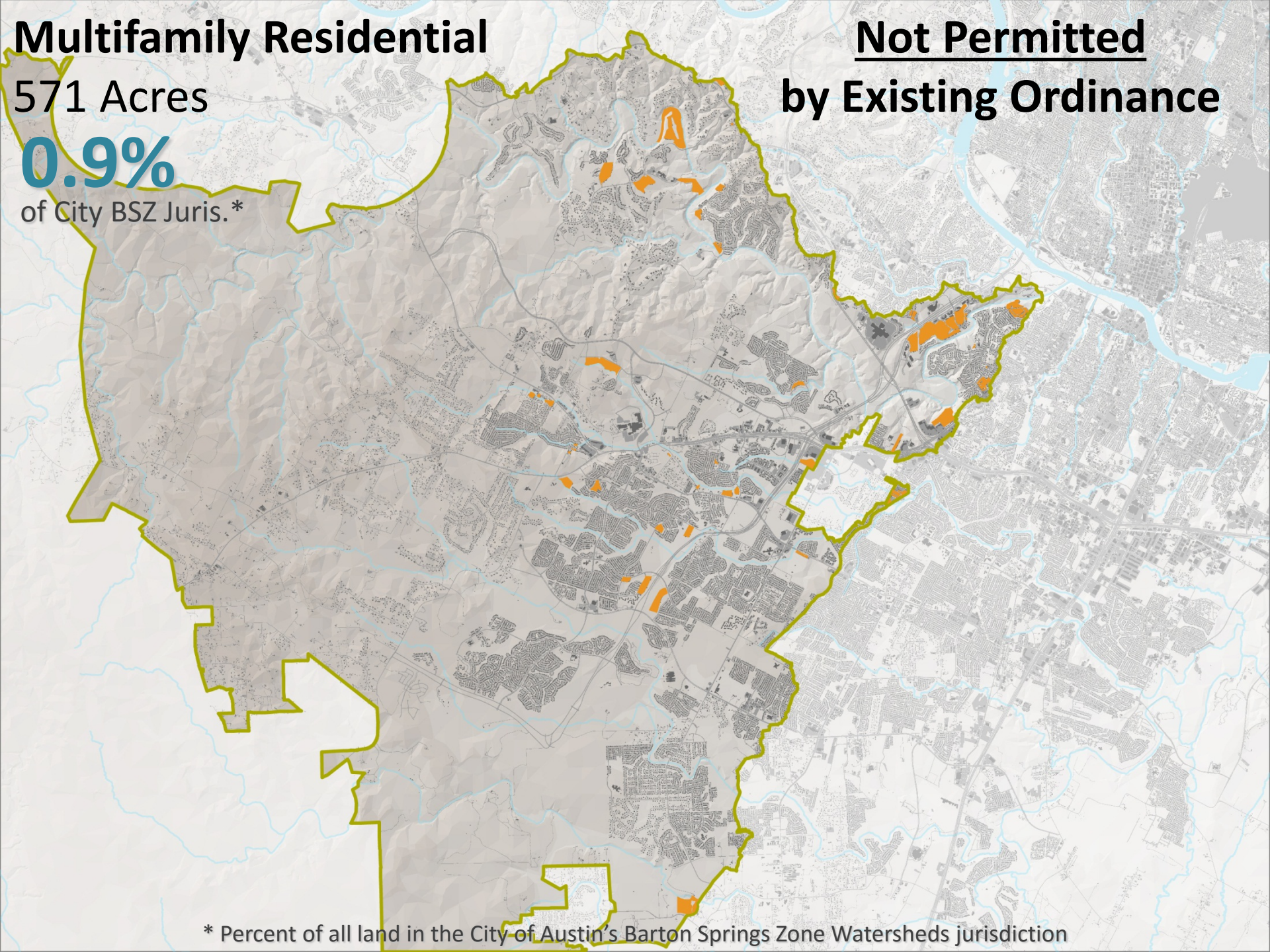
# Multifamily Residential

571 Acres

**0.9%**

of City BSZ Juris.\*

**Not Permitted**  
**by Existing Ordinance**



\* Percent of all land in the City of Austin's Barton Springs Zone Watersheds jurisdiction



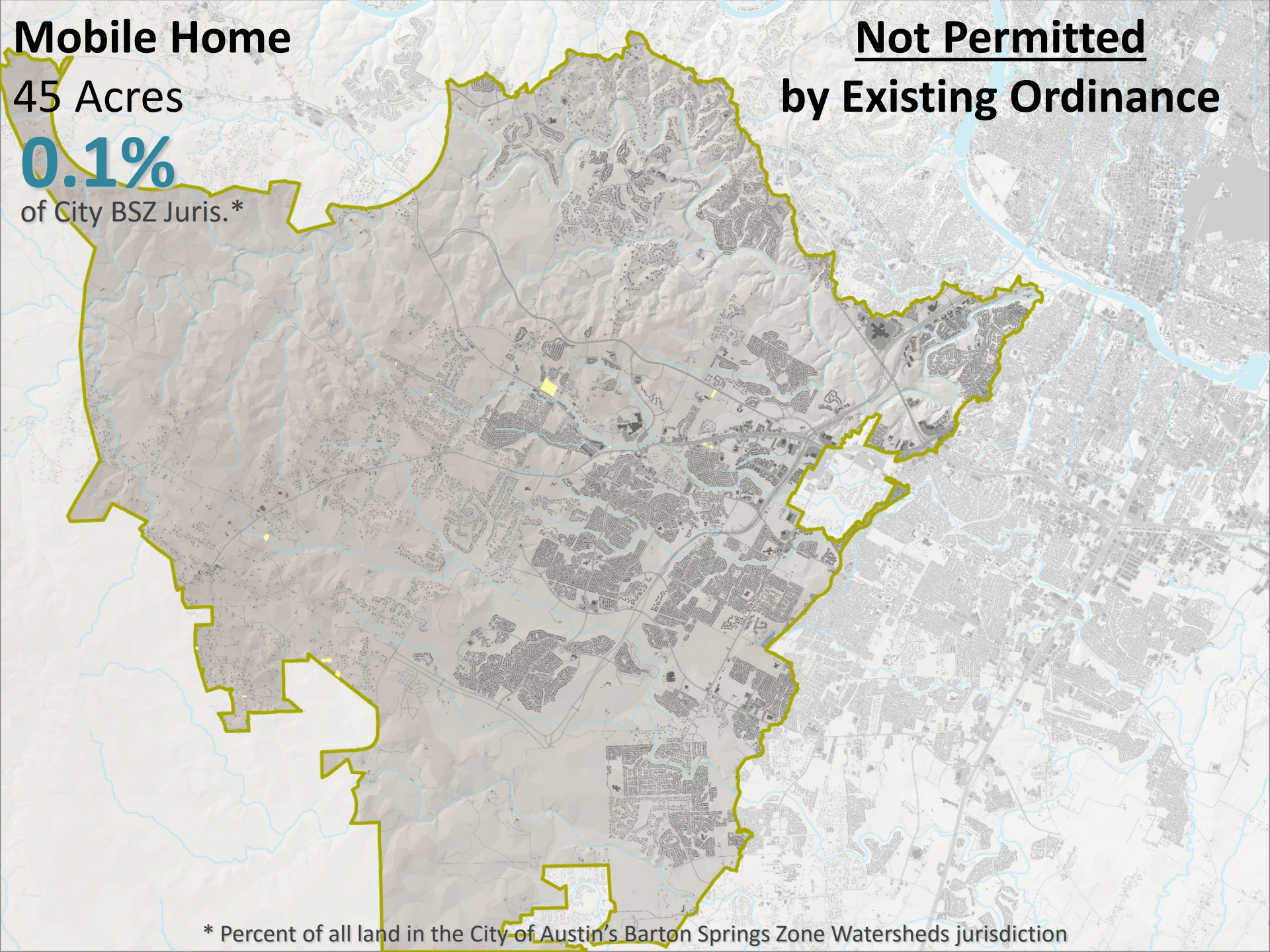
# Mobile Home

45 Acres

**0.1%**

of City BSZ Juris.\*

**Not Permitted**  
**by Existing Ordinance**



\* Percent of all land in the City of Austin's Barton Springs Zone Watersheds jurisdiction



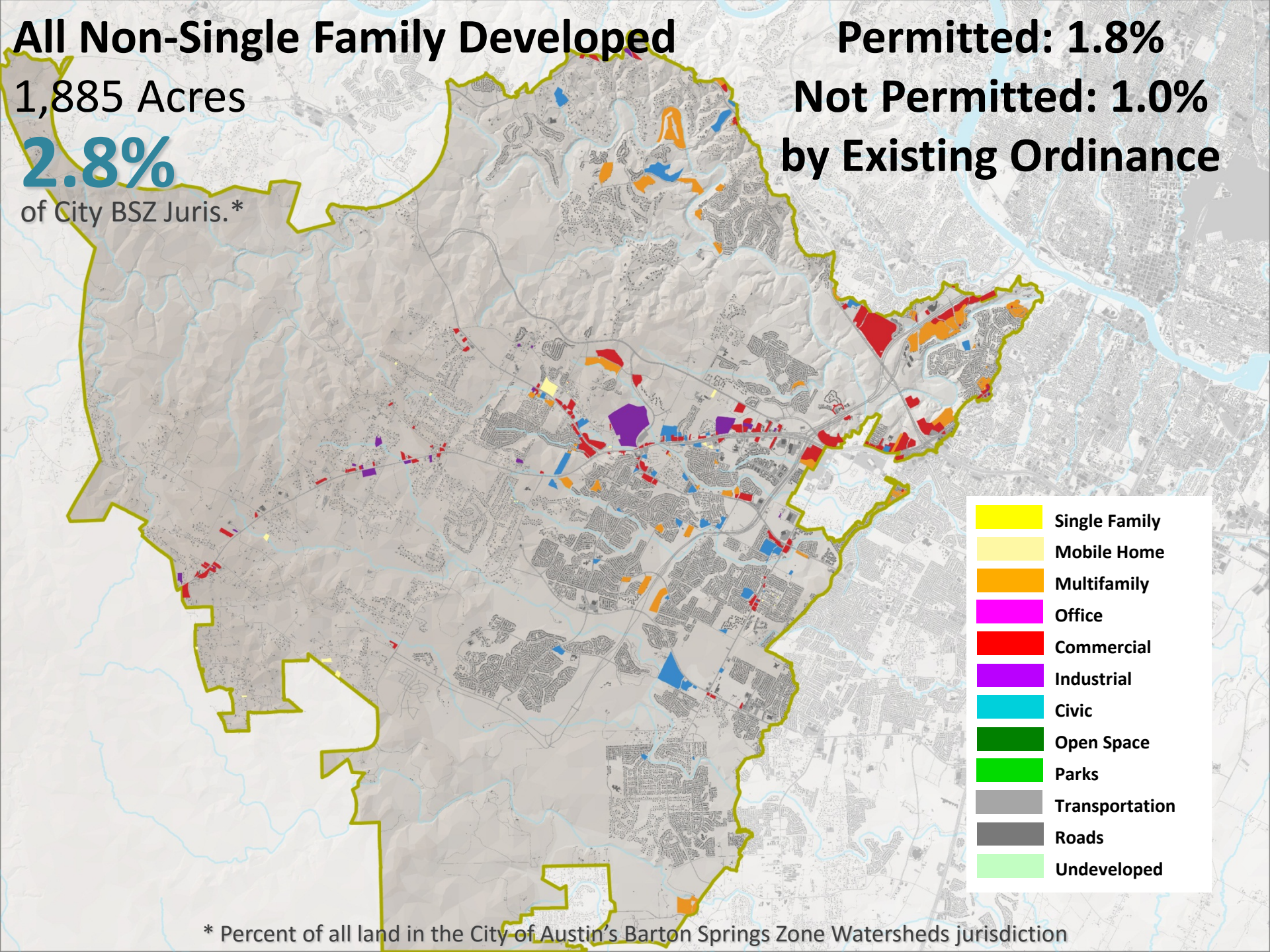
# All Non-Single Family Developed

1,885 Acres

**2.8%**

of City BSZ Juris.\*

**Permitted: 1.8%**  
**Not Permitted: 1.0%**  
**by Existing Ordinance**



\* Percent of all land in the City of Austin's Barton Springs Zone Watersheds jurisdiction

# BSZRE Amendments

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- **§25-8-26(E), Allow use on a portion of a site**
  - Change water quality requirement from the entire site to an area at least twice the size of the redeveloped area
- **Benefits**
  - Allow gradual redevelopment of larger sites/projects
  - Smaller projects often more feasible/practical
  - Achieve water quality retrofit and open space preservation on a shorter time-scale
  - Doubles treatment area proposed in 2013
  - Restores partial site option (up to 25%) in 2000  
Redevelopment Exception eliminated by WPO



# Case Study: Oak Hill Plaza

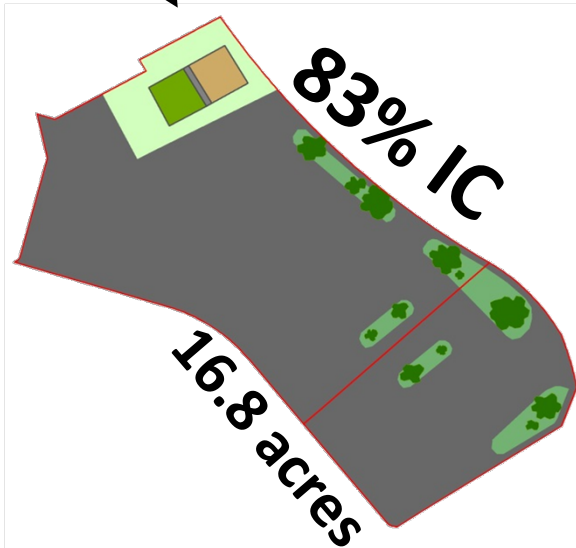
- 16.8 acres
- 83% IC
- Flood control only  
(no WQ controls)



# Case Study: Existing Code

(Oak Hill Plaza)

Sed/fill pond for  
entire site



+

0% IC

52.9 Acres



Mitigation land  
for entire site

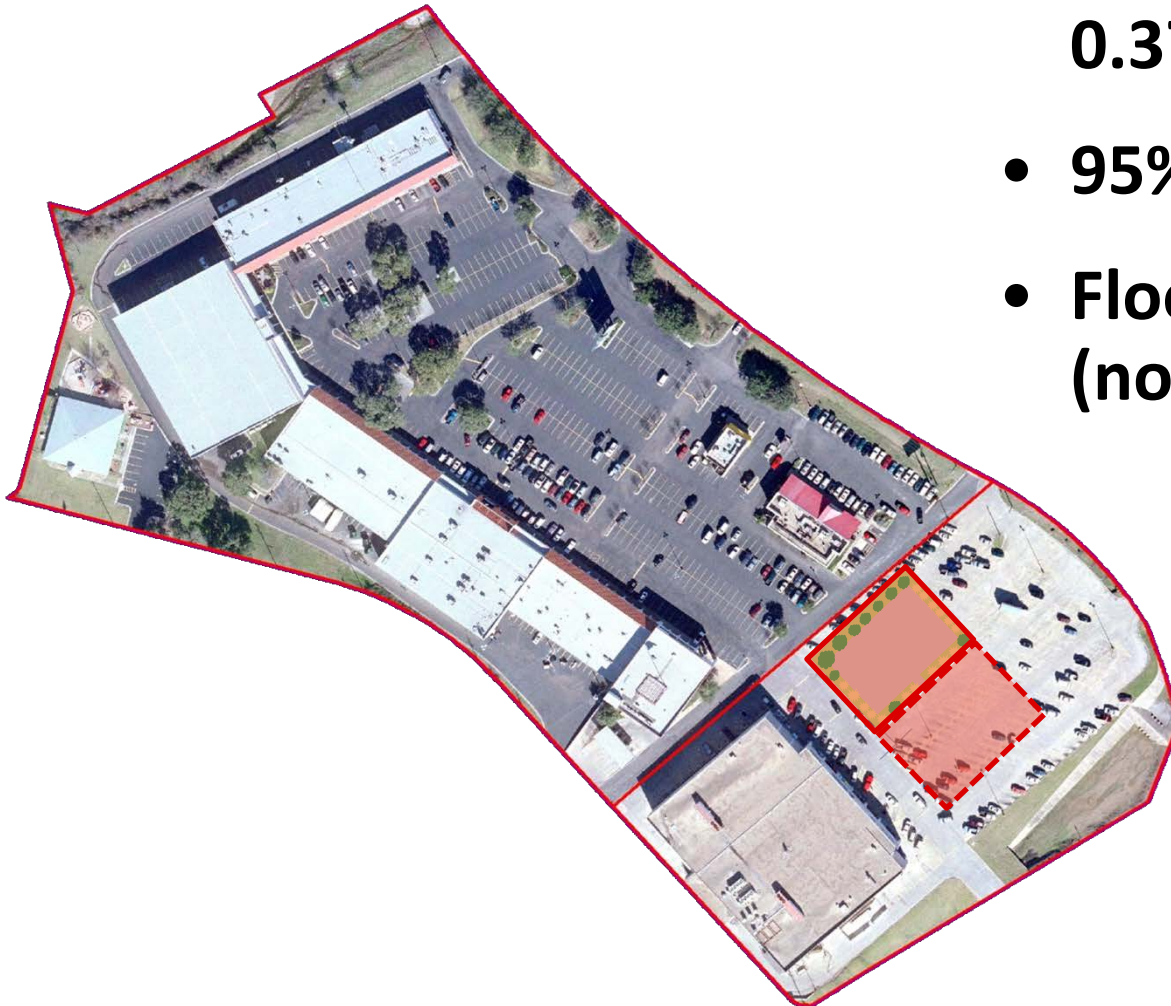
= 20% IC

69.7 acres  
combined

\$1,458,817  
mitigation fee

# Case Study: Partial Site Redevelopment

(Oak Hill Plaza)

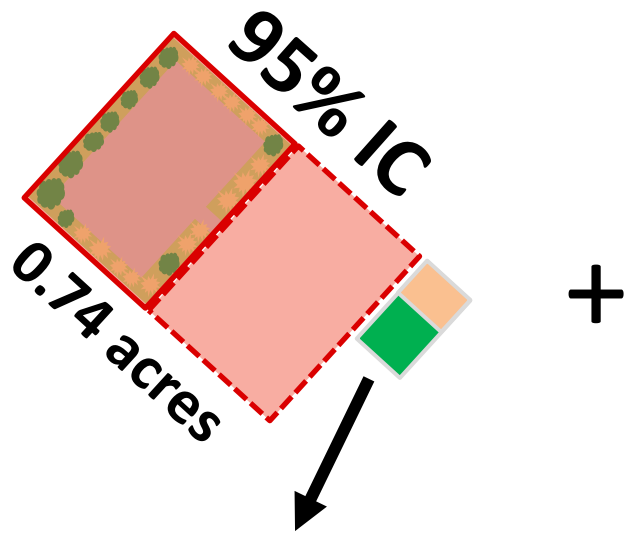


- 16,000 square feet / 0.37 acres
- 95% IC
- Flood control only (no WQ controls)



# Case Study: Partial Site Redevelopment

(Oak Hill Plaza)



+



Mitigation land for  
2x redeveloped area

= **20% IC**

3.52 acres  
combined

**\$76,526**  
mitigation fee

# BSZRE Amendments

- **§25-8-26(E), Water quality treatment standards**
  - Clarify that all redevelopment must meet at least a sed/fil treatment standard for the required treatment area
- **§25-8-26(F), City Council approval**
  - Allow projects with existing civic land uses to be reviewed and approved administratively
- **Benefits**
  - Simplifies use of redevelopment exception for small scale civic projects
  - Other triggers for Council review remain in place

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# BSZRE Amendments

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- **§25-8-26(H)/27(G), Mitigation credit for on-site restoration**
  - Provide 1:1 mitigation credit for removing impervious cover from and restoring creek or CEF buffers
- **Benefits**
  - Provides incentive to restore lost natural function in environmentally sensitive areas
  - Allowing on-site mitigation as an option will not be a barrier to redevelopment



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Watershed Protection Ordinance (WPO) clean-up	<b>36</b>
Clarification of Land Use Commission findings of fact	<b>1</b>
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Barton Springs Zone Redevelopment Exception (BSZRE) amendments	<b>5</b>

# Contact Information

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