



## Water & Wastewater Commission Review and Recommendation

<b>Commission Meeting Date:</b>	December 5, 2018
<b>Council Meeting Date:</b>	December 13, 2018
<b>Department:</b>	Planning and Zoning
<b>Client:</b>	Virginia Collier, Randi Jenkins, and Kevin Critendon
<b>Agenda Item</b>	
Approve a resolution consenting to the annexation by <b>Lazy Nine Municipal Utility District 1A</b> of approximately 124 acres within the City of Austin's extraterritorial jurisdiction. This action concerns land located within the Barton Springs Zone.	
<b>Amount and Source of Funding</b>	
N/A	
<b>Purchasing Language:</b>	N/A
<b>Prior Council Action:</b>	N/A
<b>Boards and Commission Action:</b>	December 5, 2018 – To be reviewed by the Water and Wastewater Commission. December 11, 2018 – To be reviewed by the Planning Commission.
<b>MBE/WBE:</b>	N/A

On October 31, 2018, the City received an application requesting the City's consent to the annexation of approximately 124 acres into the Lazy Nine MUD 1A (MUD). The MUD is located in the City of Bee Cave's extraterritorial jurisdiction (ETJ) in western Travis County south of State Highway 71 West, west of the City of Bee Cave. The tract to be annexed into the MUD is located in Austin's ETJ and surrounded by the MUD and Bee Cave's ETJ on three sides. A map identifying the tract to be annexed into the MUD and its location relative to existing MUD boundaries and City jurisdictions is attached. The southern portion of the tract to be annexed into the MUD is located within the Little Barton Creek Watershed and currently subject to the City of Austin Save Our Springs Ordinance. The northern portion of the tract drains to Lake Travis and is currently subject to City of Austin Water Supply Rural water quality requirements. The property contains a minor waterway and at least one rimrock critical environmental feature.

### **Background**

The Lazy Nine MUD 1A (MUD) was created by legislative act in the unincorporated area of Travis County in 2003, therefore, the City of Austin does not have a consent agreement with this MUD. However, the Texas Local Government Code and the Water Code require the owner of property located in a City's ETJ to obtain City consent prior to that property becoming part of a MUD. The Lazy Nine MUD 1A is considered a "noncity service district" and as such, the City is not authorized to place restrictions or conditions on this consent. If the City fails or refuses to consent within 90 days of receipt of a written request, the owner may petition the City to make available those services to be provided by the MUD. Failure to execute a mutually agreeable contract for services within 120 days constitutes authorization for inclusion of land within the district. This request for City consent to annexation into the Lazy Nine MUD 1A is similar to a request that was approved by the City Council in 2011 for land located to the north and east of this 124 acre tract.

The Lazy Nine MUD 1A provides customers located within the MUD with retail water services via wholesale water purchased from the West Travis County Public Utilities Agency (WTCPUA) and retail wastewater service via a centralized sewer collection system and a Texas Land Application Permit (TLAP) wastewater disposal permit. The City of Austin has an existing settlement agreement with Lazy Nine amending the wastewater TLAP to be more protective. If the subject property was not annexed into the MUD and pursued a new TLAP from the Texas Commission on Environmental Quality, the City of Austin would need to negotiate a separate agreement with the property owners in order to obtain the same protections as currently exist in the Lazy Nine settlement agreement.

Annexation of this area into the MUD would replace City of Austin water quality regulations with the regulations established by the development agreement between the MUD and the City of Bee Caves. The southern portion of the property is within the Little Barton Creek Watershed, and is currently subject the Save Our Springs Ordinance. The replacement water quality regulations for the southern portion of the property within the Little Barton Creek Watershed are less stringent, and would allow 20% impervious cover on a gross site area basis versus 20% on a net site area basis under City of Austin regulations, and would require water quality controls capable of 95% pollutant removal versus non-degradation water quality treatment under City of Austin regulations. Buffer zones for critical environmental features and creeks under Bee Cave regulations would be 85 feet, versus 50-100 feet for creek buffers in this area and 150 feet for critical environmental features under City of Austin regulations. There would be no limitations on the amount of cut and fill versus a maximum of 4 feet under

City of Austin regulations.

The northern portion of the property is within the Lake Travis Watershed and is currently subject to City of Austin Water Supply Rural regulations. The replacement water quality regulations would be the Lower Colorado River Authority's Highland Lakes Watershed Ordinance. Because the requirements of both the City of Austin Water Supply Rural regulations and Lower Colorado River Authority Highland Lakes Ordinance vary based on the type of development, which is not definitively known for the subject parcel, a direct comparison cannot be made.

### **Applicant's Proposal**

Annexation of this tract into the Lazy Nine MUD 1A will allow the MUD to provide service to this tract for the future development of large-lot single family homes. The MUD currently has water and wastewater facilities adjacent to this tract. The nearest suitable City facilities are located approximately 8.7 miles away near the intersection of Thomas Springs Road and SH 71 West. The applicant has determined that service from Austin Water is not feasible given the distance and existing improvements along the proposed routes and has requested annexation into the MUD to obtain utility service from the MUD.

Once tract is annexed into the MUD, the portion of the tract located in the Lake Travis Watershed would be subject to the Lower Colorado River Authority's Highland Lakes Watershed Ordinance and the portion of the tract in the Little Barton Creek Watersheds would be subject to the City of Bee Caves water quality ordinances. The applicant has indicated that topographic, utility, and access constraints will allow for the limited development of relatively low density single family uses with between 0.5 and 1.0 units per acre. Although there are currently no proposed improvements or dwelling units on the tract, detention and drainage facilities meeting applicable state and local standards will be submitted with any construction plans or preliminary plans in the future.

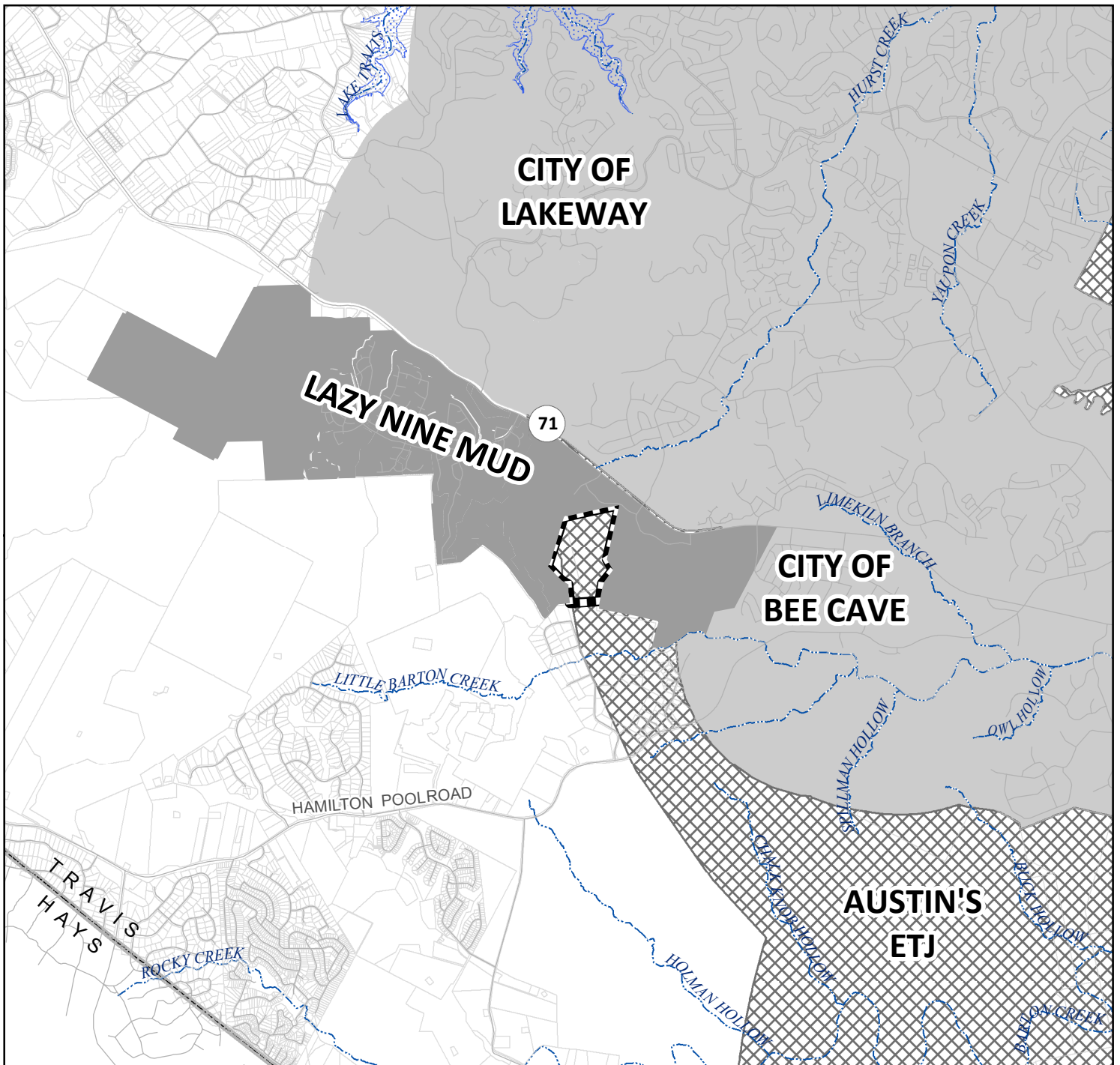
### **City Review Process**

The City Code review process for annexation to a MUD requires review by staff and boards and commissions prior to action by Council. Requests for annexation into a water district are typically evaluated in terms of:

- Impact on the City's annexation program
- Land Use impacts
- The City's ability to provide direct water and/or wastewater service
- The terms of the City's consent agreement/contract(s) with the water district
- Environmental impacts
- Whether the proposed annexation would induce development within the Drinking Water Protection Zone (DWPZ) beyond what would occur otherwise

### **Recommendation**

Staff recommends consent to the proposed annexation into Lazy Nine MUD 1A. Staff has determined that Austin Water cannot provide service to this tract and therefore annexation by the MUD without the express consent of the City is likely to occur in any case. Annexation into the MUD will not affect the City of Austin's annexation plans as this MUD is located in the City of Bee Cave's jurisdiction. Further, staff does not anticipate any negative land use impacts on adjacent property or significant adverse environmental impacts if the MUD annexes the tract.



## C12M-2018-0004 - Annexation into Lazy Nine Municipal Utility District 1A (MUD)

N  
1 in = 5,000 feet



124 acre Annexation Area



Lazy Nine MUD 1A



Other Municipality



Austin ETJ



Parcels



Streets



Major Creeks

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City of Austin  
Planning and Zoning Department  
October 2018