



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: 38
AGENDA DATE: Thu 05/13/2004
PAGE: 1 of 1

SUBJECT: Conduct a public hearing and approve an ordinance amending Title 25 of the City Code (Land Development Code) regarding administrative approval of wastewater lines in the Critical Water Quality Zones in the Harris Branch, Decker, Gilleland and Wilbarger Creek watersheds (Weston Study Area).

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT: Development Review **AUTHORIZATION:** Joe Pantalione

FOR MORE INFORMATION CONTACT: Patrick Murphy, 974-2821; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: Council Resolution 031211-53 directing the City Manager to present recommendations within 60 days regarding administrative approvals for wastewater infrastructure in the critical water quality zone of the watersheds within the Weston Study Area. February 5, 2004 presentation to Council by the Watershed Protection and Development Review Department and Austin Water Utility where Council directed the City Manager to initiate the recommended code amendments.

BOARD AND COMMISSION ACTION: Environmental Board and Zoning and Platting Commission recommended disapproval. Planning Commission recommended disapproval of Code Amendments, and recommended adopting streamline variance process.

PURCHASING: N/A

MBE / WBE: N/A

After the February 5, 2004 presentation to Council, staff began work on the required code amendments and administrative rules to implement the Council's directive. A draft ordinance has been completed that provides for administrative approval by the Director of the Watershed Protection and Development Review Department of variances to construct wastewater lines in the Critical Water Quality Zone under certain conditions. The administrative variance can only be approved in disturbed areas of the critical water quality zone. The wastewater lines must be located so that it will not be exposed by future channel erosion and must be located a minimum of 100 feet from the existing creekbank. The easement and the area between the easement and the centerline of the waterway must be restricted against any future disturbance and a native restoration plan must be provided for these areas.

The proposed amendment went to the Environmental Board on March 17, 2004, and the Zoning and Platting Commission on April 6, 2004. It is scheduled to go to the Planning Commission April 13, 2004.



City of Austin

MEMO

P.O. Box 1088, Austin, TX 78767
www.cityofaustin.org/housing

Neighborhood Housing and Community Development Office

Paul Hilgers, Community Development Officer

(512) 974-3108, Fax: (512) 974-3112, paulhilgers@ci.austin.tx.us

Date: April 21, 2004

To: Joe Pantalion, Director
Watershed Protection and Development Review Department

From: Paul Hilgers, Community Development Officer
Neighborhood Housing and Community Development Office

Subject: Affordability Impact Statement – Code Amendment Governing
Administrative Approval of Wastewater Lines

The Neighborhood Housing and Community Development Office (NHCD) finds that the proposed amendment to Title 25 of the City code governing administrative approval of wastewater lines could have a positive impact on housing affordability by reducing construction costs for housing served by the wastewater lines. The proposed amendment incorporates administrative reviews required by the Environmental officer prior to director decisions on variances.

Please let me know if you need additional information.

Paul Hilgers, Community Development Officer
Neighborhood Housing and Community Development Office

PH:sc

Sc/Memo-Pantalion-AIS-Code Amendment-Wastewater-042104

Cc: Toby Futrell, City Manager

Michael C. McDonald, Acting Assistant City Manager

Lisa Gordon, Assistant City Manager

Pat Murphy, WPDR

Gina Copic, NHCD



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 37
AGENDA DATE: Thu 04/15/2004
PAGE: 1 of 1**

SUBJECT: Set a public hearing to consider an amendment to Title 25 of the City Code (Land Development Code) regarding administrative approval of wastewater lines in the Critical Water Quality Zones in the Harris Branch, Decker, Gilleland and Wilbarger Creek watersheds. (Suggested date and time: April 22, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building).

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT: Development Review **AUTHORIZATION:** Joe Pantalion

FOR MORE INFORMATION CONTACT: Patrick Murphy, 974-2821; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: Council Resolution 031211-53 directing the City Manager to present recommendations within 60 days regarding administrative approvals for wastewater infrastructure in the critical water quality zone of the watersheds within the Weston Study Area. February 5, 2004 - the Watershed Protection and Development Review Department and Austin Water Utility presented recommendations to Council and the Council directed the City Manager to implement the recommended changes and to initiate the necessary code amendments.

BOARD AND COMMISSION ACTION: March 17, 2004 - Environmental Board recommended disapproval. April 6, 2004 - Zoning and Platting Commission recommended disapproval. Amendments will be presented to the Planning Commission on April 13, 2004.

After the February 5, 2004 presentation to Council, staff began work on the required code amendments and administrative rules to implement the Council's directive. A draft ordinance has been completed that provides for administrative approval by the Director of the Watershed Protection and Development Review Department of variances to construct wastewater lines in the Critical Water Quality Zone under certain conditions. The administrative variance can only be approved in disturbed areas of the critical water quality zone. The wastewater lines must be located so that it will not be exposed by future channel erosion and must be located a minimum of 100 feet from the existing creekbank. The easement and the area between the easement and the centerline of the waterway must be restricted against any future disturbance and a native restoration plan must be provided for these areas.

The proposed amendment went to the Environmental Board on March 17, 2004, and the Zoning and Platting Commission on April 6, 2004. It is scheduled to go to the Planning Commission April 13, 2004.

CITY PLANNING COMMISSION

ADDENDUM #2

April 13, 2004
One Texas Center
505 Barton Springs Road
Conference Room 325

RECEIVED

APR 12 2004

Neighborhood Planning
Community Development

A. REGULAR AGENDA

DISCUSSION AND ACTION

23. Code C20-04-003 - Ordinance Amending Section 25-8-42 of the City Code
Amendment: Relating to Administrative Variances
Staff Rec.: Recommended
Staff: Pat Murphy, 974-2821, pat.murphy@ci.austin.tx.us
Watershed Protection and Development Review

The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call Sylvia Arzola, Transportation, Planning & Sustainability Department, at 974-6448, for information, text phone users route through Relay Texas at (800) 735-2989.

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**Variance Process Amendments for
Wastewater Infrastructure in the
Weston Study Area**

**Watershed Protection and Development Review
and
Austin Water Utility
April 6, 2004**

Council Resolution No. 031211-53

- On December 11, 2003 Council directed the City Manager to:

"Present recommendations within 60 days regarding administrative approvals for wastewater infrastructure in the critical water quality zone of the Weston Study Area."

February 5, 2004 Council Briefing

- Staff recommended code amendments and variances process changes to provide for wastewater infrastructure in the Weston Study Area.
- Council directed staff to initiate code criteria amendments

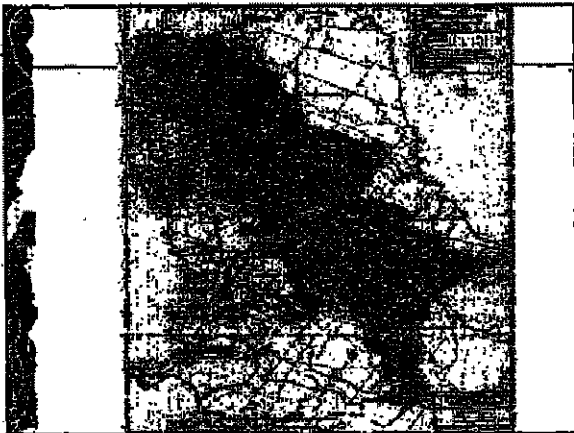
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Weston Study Objective

- The overall objective of the Northeast Service Area Wastewater Master Plan was to develop a long-term plan for providing wastewater service to the planning area.

Weston Study Planning Area

- The Planning Area Boundary Includes:
 - The Harris Branch and Gilleland Creek watersheds and portions of the Wilbarger and Decker Creek watersheds
 - All of the land contained in the City of Austin's 2-mile ETJ and portions of the 5-mile ETJ
 - Encompassing approximately 45,500 acres



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Scope of Weston Study

- Data Collection and Review
- Wastewater Flow Development for the years 2005, 2010, 2020, 2030 and 2040 based on two different growth scenarios
- Model Development and Analysis including phasing and cost estimates for collection system facilities

Scope of Weston Study (cont.)

- Wastewater Treatment Plant Evaluation including:
 - Alternative site selection
 - Treatment process options
 - Preliminary site layouts
 - Plant phasing
 - Cost estimates

Weston Study

Recommendations

- Completed in November 2000
- Recommended a new Northeast Regional Wastewater Treatment Plant and wastewater collection system
- Proposed two alternative collector alignments:
 - Inside the Critical Water Quality Zone
 - Outside the Critical Water Quality Zone
- Projected significant cost savings if lines could be constructed in the Critical Water Quality Zone

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Weston Study

Implementation Considerations

- Development in the Desired Development Zone is limited by a lack of wastewater infrastructure
- Many areas along the waterways within the Northeast Service Area have been disturbed by agricultural uses
- The Weston Study projected a \$12M cost savings if wastewater lines could be constructed in the Critical Water Quality Zone
- An environmental variance request requires a large engineering investment with an uncertain result

Shared Community Goals

- Reduce Permit Process Time and Cost
 - Reduced time for approval and permitting of wastewater infrastructure in the Desired Development Zone
- Reduce Construction and Maintenance Costs
 - Reduced cost to construct wastewater infrastructure in the Desired Development Zone
 - Reduced future maintenance costs for drainage and wastewater infrastructure
- Promote creek restoration and public access

New Information

- Watershed Protection Master Plan (June 2001)
- Channel widening is a major concern
- Protection of channel integrity and prevention of property damage resulting from erosion



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Objective

- To determine the best way to reduce the time and expense for permitting, construction and maintenance of wastewater infrastructure in the Desired Development Zone, while
 - Minimizing the future risk to the City's wastewater and drainage infrastructure
 - Providing opportunities for restoration and public access
 - Minimizing long-term operation and maintenance costs

Staff Recommendations

- Administrative Variance
 - Administrative approval of wastewater lines in the Desired Development Zone under certain circumstance and with certain conditions
- Streamlined Variance Process
 - Current variance consideration process without requiring a complete site plan application in the Desired Development Zone under certain conditions

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Critical Water Quality Zone

Variance Scenarios

Scenario 1

- Wastewater line proposed within disturbed areas outside of the predicted erosion hazard zone

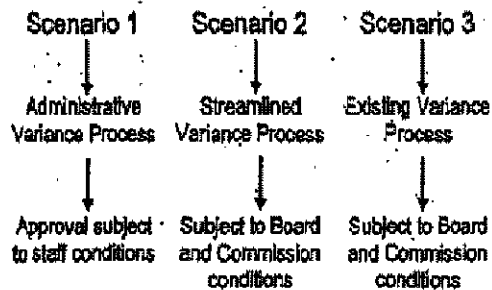
Scenario 2

- Wastewater line proposed within previously disturbed transitional areas outside of predicted erosion hazard zone

Scenario 3

- Wastewater line proposed within a riparian woodland area and/or within the predicted erosion hazard zone

Apply Variance Process Specific to Project Conditions



Variance Mitigation Considerations

- No construction should occur within 100 feet of the existing creek bank
- The lines should be located outside of the predicted "Erosion Hazard Zone"
- The project should provide for native revegetation and reforestation of the easement area and the land between the easement and centerline of the waterway
- The project should provide opportunities for a permanent undisturbed state and should not prohibit future public access

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Benefits – Reduced Development Permitting Time and Cost

- Variances for wastewater lines in disturbed areas will have a faster and less expensive administrative approval process.
- Variances for wastewater lines in transitional areas will have reduced variance approval time and reduced up-front engineering costs.

Benefits – Reduce Construction and Maintenance Costs

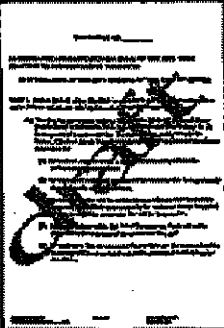
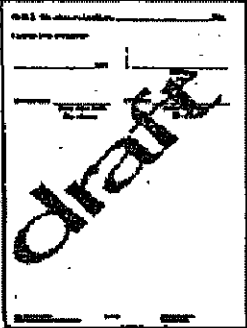
- The ability to locate lines closer to creeks will significantly reduce construction costs
- Erosion setbacks and construction setbacks will significantly reduce future infrastructure and maintenance costs that will "Protect the creeks from the lines and protect the lines from the creeks"

Benefits – Promote Creek Reforestation and public access

- Variance conditions will serve to restore previously disturbed riparian areas with native species and trees
- Opportunities will be provided to facilitate future public access to creek corridors

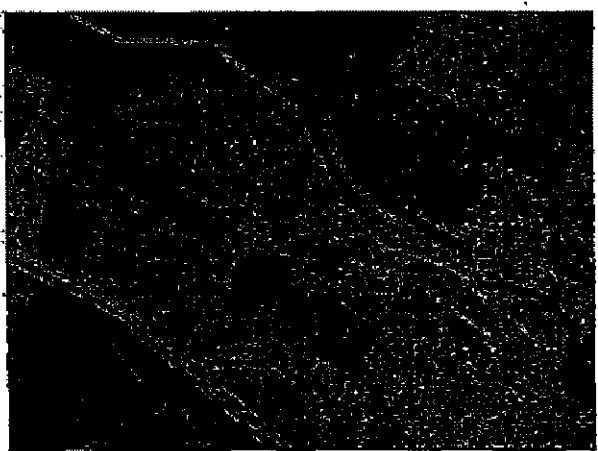
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Administrative Variance Amendment

	
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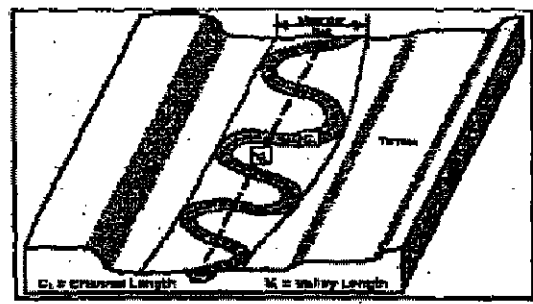
**Administrative Variance
Code Amendment Summary**

- Wastewater Infrastructure Variances
 - Critical Water Quality Zone
 - Wastewater Restrictions
- Conditions
 - Does not create harmful environmental consequences
 - Only allowed within areas where natural and traditional character has been previously disturbed
 - Located outside of the predicted channel erosion
 - No disturbance within 100 feet from top of bank
 - Area along creek to be restricted against future disturbance and restored with native vegetation

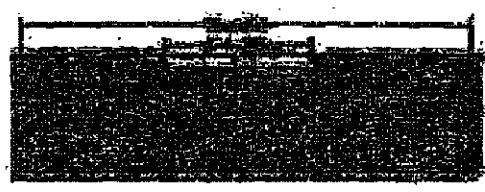


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Channel Meander Belt



Erosion Hazard Zone



Streamlined Variance Process

- Environmental Variance Consideration
- No Change to Required Variance Approvals
 - Environmental Board Recommendation
 - Land Use Commission Approval
- Targets Wastewater Infrastructure
- Desired Development Zone
- Northeastern Suburban Watersheds
 - Decker, Harris Branch, Gileland and Wilberger

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Process Highlights

- Divide site plan into two applications:
 - Environmental variance submittal
 - Full design submittal
- Provide environmental information appropriate for review of variance request
- Once variance is acted on, submit complete construction plans for administrative review & approval

Pilot Implementation

- Post rule creating new application submittal packet requiring all relevant environmental information for processing the variance
- Use Project Assessment fee schedule + notification and variance fees
- Environmental reviewer will act as case manager

Next Steps

- Code Amendment Process
 - Environmental Board
 - Zoning and Platting Commission
 - Planning Commission
- Administrative Rules
 - Streamlined Variance Process
 - Erosion Hazard Zone Criteria
 - Restoration Plan requirements

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Revised Schedule

- 3/17 Environmental Board
- 4/6 Zoning & Platting Commission
- 4/13 Planning Commission
- 4/22 City Council
- 5/05 City Council (if needed)

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ORDINANCE NO. _____

**AN ORDINANCE AMENDING SECTION 25-8-42 OF THE CITY CODE
RELATING TO ADMINISTRATIVE VARIANCES.**

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

PART 1. Section 25-8-42 of the City Code is amended to add Subsection (D) to read as follows and reletter existing Subsection (D) as Subsection (E):

(D) The director may grant a variance from Section 25-8-392 (*Critical Water Quality Zone*) or Subsection 25-8-361 (*Wastewater Restrictions*) for the development of a wastewater line in a critical water quality zone in the Decker, Gilleland, Harris Branch, or Wilbarger watershed if the director determines that:

- (1) the variance does not create a significant probability of harmful environmental consequences;
- (2) the natural and traditional character of the waterway has been previously disturbed and is not established;
- (3) the wastewater line will be outside the area adjacent to or beneath the waterway that is likely to be eroded by the waterway during the period of time in which the wastewater line will be in operation;
- (4) the land surface within 100 feet of the waterway bank will not be disturbed by development of the wastewater line; and
- (5) the wastewater line easement and the area between the easement and the waterway will be revegetated with native plants and restricted against disturbance.

PART 2. This ordinance takes effect on _____, 2004. ⁴²³
13

PASSED AND APPROVED

_____, 2004

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Will Wynn
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Smith
City Clerk

DRAFT



A23
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ENVIRONMENTAL BOARD MOTION 031704-C1

Date: March 17, 2004

Subject: Ordinance Amendment to 25-8-42: Administrative Approval to develop New Wastewater Lines in the Critical Water Quality Zone

Motioned By: Lee Leffingwell

Seconded By: Mary Gay Maxwell

Recommendation

The Environmental Board recommends disapproval of the proposed ordinance to the Land Development Code Section 25-8-42 – to allow administrative approval of new wastewater lines in the CWQZ of the watersheds included in the Weston Study area.

Rationale

The City of Austin has a long-standing policy memorialized in the Land Development Code against locating new sewer lines in creeks and the Critical Water Quality Zones associated with them. The code in fact prohibits most types of construction in the CWQZ.

The Board believes that any deviation (variance) from this policy should be carefully scrutinized in a public venue in each individual case to ensure that the purpose for the policy (protection of the creeks) is not compromised. This ordinance amendment would effectively remove the process whereby the public is informed of and allowed to comment on these variances.

The Board, in this recommendation, makes no specific comment on the merits of the Weston study case. The recommendation is specific only to the process whereby this type of variance is approved.

The Board has previously recommended approval of similar administrative variances to expedite implementation of the Austin Clean Water Plan. However, in this case, a serious environmental hazard – namely leaking sewer lines already in the creeks – was preexisting. In addition, the City was subject to a strict and short-term mandate for remediation by the federal Environmental Protection Agency. The mandate prescribed stiff financial penalties to the City for failure to meet the requirements on a timely basis. The two situations are therefore completely different.

Continued on back

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Authority currently exists to revise existing guidelines for submitting applications for variances, which could significantly reduce the time and expense required on the part of the applicant. The argument that this ordinance would reduce the expense of engineering studies in the face of uncertainty can be adequately addressed in the rule-making process.

There is no compelling interest for the citizens of Austin to change the current procedure for obtaining variances to locating sewer lines in the CWQZ.

Vote 6-1-0-1

For: Ascot, Curra, Holder, Leffingwell, Maxwell, Riley

Against: Moncada

Abstain: None

Absent: Anderson,

Approved By:

Lee Leffingwell, Chair

ORDINANCE NO.

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- (1) the variance does not create a significant probability of harmful environmental consequences;
 - (2) the natural and traditional character of the waterway was disturbed before May 24, 2004 and is not re-established;
 - (3) the wastewater line will be outside the area adjacent to or beneath the waterway that is likely to be eroded by the waterway during the period of time in which the wastewater line will be in operation;
 - (4) the land's surface within 100 feet of the waterway bank will not be disturbed by development of the wastewater line; and
 - (5) the wastewater line easement and the area between the easement and the waterway will be revegetated with native plants and restricted against disturbance.

This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004

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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk



ENVIRONMENTAL BOARD MOTION 031704-C1

Date: March 17, 2004

Subject: Ordinance Amendment to 25-8-42: Administrative Approval to develop New Wastewater Lines in the Critical Water Quality Zone

Motioned By: Lee Leffingwell

Seconded By: Mary Gay Maxwell

Recommendation

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Rationale

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Vote 6-1-0-1

For: Ascot, Curra, Holder, Leffingwell, Maxwell, Riley

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1 **PART 2.** This ordinance takes effect on _____, 2004.

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3 **PASSED AND APPROVED**

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7 _____, 2004 § _____
8 _____ Will
9 _____ M ayor

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12 **APPROVED:** _____
13 David Allan Smith
14 City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

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ATTEST: _____
Shirley A. Brown
City Clerk