



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

AGENDA ITEM NO.: 68
AGENDA DATE: Thu 08/26/2004
PAGE: 1 of 2

SUBJECT: Conduct a public hearing and approve an ordinance amending Sections 25-7-92 and 25-7-152 and adding a new Section 25-7-96 to the City Code relating to the construction of an unoccupied building structure or parking area on recreational lands in the 25-year floodplain and to the dedication of easements and rights of way.

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: George Oswald, 974-3369; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: Approved by the Parks and Recreation Board. Not recommended by the Environmental Board. Recommended by the Planning Commission.

PURCHASING: N/A

MBE / WBE: N/A

The purpose of this City Code amendment is to allow the construction of certain unoccupied building structures and parking areas on recreational lands within the limits of the 25-year floodplain. The proposed amendment will allow the construction of restrooms, bath houses, concession stands and pump house facilities within the floodplain and allow the floor elevation to be less than the Regulatory Flood Datum (100-year floodplain elevation plus 1 foot). To permit this type of building construction, the following conditions must be met: 1) buildings are required to be constructed of materials which are neither hazardous nor vulnerable to loss under flooding conditions, 2) certain building structural requirements must be met to resist the dynamic forces of moving floodwaters, 3) sanitary sewer systems must be designed to eliminate the infiltration of flood water and the discharge of sewage into flood water, 4) provision must be made for equalization of inside-outside hydrostatic pressure under flood conditions, and 5) an engineer/architect must certify that the building design meets these requirements. Additionally, it must be demonstrated by an engineer that the placement of a building or parking area within the floodplain will not have an adverse effect on the 100-year floodplain or on other properties.

The City Code currently includes general exceptions (Sections 25-7-93 and 95) that allow unoccupied building construction and parking areas within the boundary of the 100-year floodplain under specific limitations. Buildings must be less than 1000 square feet and parking areas less than 5000 square feet. Additionally, safeguards are in place that require the mitigation of any associated adverse floodplain or health/safety impacts. These limitations and safeguards are carried forward with the proposed City Code amendments to allow these same types of facilities to be constructed within the boundary of the 25-year floodplain on recreational land. Areas of City parkland and private recreational lands such as golf courses



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

**AGENDA ITEM NO.: 68
AGENDA DATE: Thu 08/26/2004
PAGE: 2 of 2**

are located along creeks in floodplain areas. Facilities such as restrooms and bathhouses, concession stands, and pump house facilities currently require variance action by the City Council to allow siting within the 25-year floodplain. The proposed City Code amendments will allow the approval process for small facilities to be expedited through administrative processing while maintaining safeguards. The proposed amendments are limited to small facilities; projects which exceed these size limits will continue to be presented to the City Council for variance consideration.

Parks and Recreation Department Board Minutes

Tuesday, July 27, 2004
Meeting

A regularly scheduled meeting of the Parks and Recreation Department was held on Tuesday, July 27, 2004 at the Parks and Recreation Department Main Office, 200 S. Lamar, Board Room.

Board members present: Linda Guerrero, Marilyn Bostick, Leonard Lyons, Mark Vane, Jeb Boyt, Clint Small, Hector Ortiz and Rosemary Castleberry.

Board members absent: Jeff Francell

City Staff present: Jay Stone, Warren Struss, Tino Garcia, Juan Valera, Stuart Strong and Rick Ramirez

- A. The meeting was called to order by Board Chair Castleberry at 6:38 p.m.
- B. Board member Boyt moved to approve the June 22, 2004 minutes, seconded by Board member Guerrero. Motion carried with Board member Ortiz abstaining.
- C. Citizen Communication

Richard Viktorin addressed the Board regarding access improvement to the Barton Creek Greenbelt and Wilderness Park. He reported on the death of Cody Ross who was killed accessing the greenbelt along 360. Currently people are parking on the right of way and across loop 360 and then crossing the street to access the greenbelt. He is concerned about item 15 of the Council consent agenda which reduces the BCP developer participation fee from \$5500 to \$3000. He thinks it is wrong to waive the fee for five years and then neglecting expenditures for trail access. Since the greenbelt is parkland he wants the board to be informed on this issue and invited the board to attend the next council meeting. He also indicated that the City should be providing parking for people who want to access Sculpture Falls and Twin Falls and that the City should take a half to a full acre of BCP land to construct a caliche parking lot.

Jeff Foster, President Capital City Trap and Skeet. His presentation was moved further down on the agenda to coincide with the William Archer proposal.

Matt Knifton, owner of the Texas Rowing Center addressed the Board on a proposal for dock expansion. Currently they are permitted for 120 feet of dock and are requesting an additional 40 feet for expansion. The Rowing Center is one of the highest grossing concessions on Town Lake with over 400 regular rowing users. Concession fees currently paid to the City are over \$25,000. Mr. Knifton informed the Board of the cooperative

nature of the Rowing Center highlighting sponsoring programs for kids and allowing public access through their facility. He is asking the Board for support when the issue comes before the Board for action. The Navigation Committee has been addressing the proposal but further discussion is needed before final action is taken.

D. Presentation

Claudette Hartman and Craig Nazor, The Hartman Foundation, Inc.

Ms. Hartman reported on the need for the cultural and esthetic needs of all cities, the beauty of the City of Austin and the adjoining parks on both sides of Town Lake but also called for more appropriate funding for Austin parks. She spoke of the natural beauty of the Zilker Botanical Gardens and how it serves as a principal attraction for visitors to Austin. However, the lack of funding to its maintenance and operation has reduced the enhancement of the gardens. Due to this dilemma the Austin Botanical Garden Foundation proposes that the management of the Zilker Botanical Garden be managed by a private independent board with mission of raising funds to make the Gardens a 1st class botanical garden facility. They have developed a business plan that is realistic and workable with modest user fees comparable to similar botanical gardens. The plan calls for capital items, staff to manage the facility and a full time education director. The main capital improvement plan is to move the entrance from the current location on Barton Springs road to an entrance on Strafford Drive. Reasons cited are safety and improved traffic flow including additional parking. In the past eight years the number of visitors to the Garden has increased three fold, but the funding to the Gardens has decreased.

Craig Nazor informed the board that there are many volunteers who are assisting in maintaining the Garden, however when compared to other Botanical Gardens, Zilker ranks at the bottom of the list in terms of funding. This lack of funding makes it difficult to improve or enhance the garden and to recruit more volunteers. Mr. Nazor indicated that the facility has no funds to fix pumps that need repair and this is an example of the types of things that prohibit the garden from growing. They report that there appears to be community support to sustain the amount of funding to adequately fund the facility. In terms of its size the amount should be around 1.5 million. Most major foundations hesitate to give money to city or state governments but rather to independent boards. The foundation is asking the board to support the proposal. Board member Small asked why can't the foundation continue to operate as it current is and facilitate donations from major donors. Mr. Nazor indicated that major donors do not want to donate large sums of money to facilities that are being run by city or state governments. Board member Boyt asked why would the city want to hand over the management of the Gardens in lieu of partnership with the Foundation. Mr. Nazor indicated that currently the Garden Council has been supplementing funding for the facility but it is getting harder to raise the funds. They say that the foundation will have the sole responsibility for the facility. Board chair Castleberry suggested that since there are many details and unanswered questions regarding this proposal that the matter be addressed at the Land and Facilities committee meeting. Board member Boyt suggested that a fee structure for the Garden comparable to the proposal be put in the 2005 budget.

Acting Director Struss recognized the work that the Foundation has done in developing this proposal.

E. *Items for Information*

Auditor's Office report to Council, Re: *Planting for the Future*

C'Anne Daugherty, Auditor, reported on the Planting for the Future fund, the fund that Austin citizens donate money through the utility bill checkoff. Ms. Daugherty described how the special revenue funds work. She reported that they looked at specific items such as labor and the planting of the trees so anyone who wants to know can see what the money is being used for. The audit concentrated on expenditures that they had specific questions on and found that none of them were inappropriate - therefore PARD has administered this fund appropriately. The report concluded that the average cost of the purchase of a tree is \$31 and the average labor expenditure to plant the tree is \$55 and the average total fund expenditure for the tree is \$89. In the last 13 years 10, 300 trees have been planted through this fund.

F. *Items for Action*

1. *Make recommendation to Council on Code Amendment for Construction in the 25 year flood plain.*

George Oswald, Manager Watershed Protection, reported that this code amendment allows the construction of certain unoccupied building structures and parking areas on recreational lands within the limits of the 100-year and 25-year floodplains. The proposed amendment will allow construction on restrooms, bath houses, concession stands and pump facilities. To permit this type of building construction the following conditions must be met. 1) construction of the buildings must be made of materials which are neither hazardous nor vulnerable to loss under flooding conditions, 2) building structural requirements must be met to resist the dynamic forces of moving floodwaters 3) sanitary sewer systems must be designed to eliminate the infiltration of flood water and the discharge of sewage into flood water 4) provision must be made for equalization on inside-outside hydrostatic pressure under flood conditions and 5) an engineer must certify that building design meets these requirements. Board member Boyt moved approval, seconded by Board member Small. The motion was unanimously approved.

2. *Consider Proposal from William Archer for New Recreation Development at Walter E. Long Metropolitan Park.*

Mr. William Archer reported that they had met with the Land and Facilities committee to go over the concept of the proposal. He reported that there will be no environment issues with the development of the park and that he had met with the neighborhood groups. Board member Guerrero asked about the possibility of holding a public hearing. Board chair Castleberry reported that the Colony Park neighborhood will be impacted by this development and that they should be fully aware. Mr. Archer said that some

neighborhood citizens will facilitate the meetings in August. Board member Rostick reiterated that a public meeting should be held and that it should be part of the process. Board member Boyt reported that the recommendation from Land and Facilities is that it be forwarded to Council to authorize negotiations for the contract. Staff has been working with Mr. Archer on this and the department will assist with the public hearing.

Jeff Foster, President of the Capital City Trap and Skeet, indicated a long standing positive relationship with the City since 1978. Many improvements have been made to the gun club since then. Fundraisers include programs for the Boys Scouts raising over \$60,000. Their biggest concern is they will be pushed out and they will be left with no gun club. They agreed if they have to move they would like to move to a facility of comparable size and kind. They are requesting a meeting with Pard as lead, Mr. Archers groups and the gun club to get assurances that they won't be left out in the cold. Board member Small asked about the current lease situation. Stuart Strong indicated that the lease is over on March 27, 2005 but it has a clause with an option to extend. Acting Director Struss indicated that Pard would facilitate the meeting between the parties. Board member Ortiz once again indicated that the community must be taken in consideration. Board member Boyt moved that the item be forwarded to Council for authorization to negotiate the contract with the following two conditions: 1) negotiations with the gun club facility and 2) that a public meeting be held in the neighborhood. Board member Ortiz seconded. Motion passed 7-1, with Board member Lyons opposed.

G. Director's Report

Acting Director Struss reported that the department is no longer charging fees for parking on the south side of Zilker Park. After looking at revenues more closely it was determined that the fees did not need to be charged. The issue will be looked at again next year. The 4th of July was a great success with huge crowds in attendance. Summer Playground Program is winding down. Summer Jam concert was also very successful. Barton Creek greenbelt as been a issue, but staff is working with the county, the state on how best to coordinate the problem. Signs have been placed along the greenbelt identifying access points. Stacie Talbert is leaving our department to become the Director of Recreation in Eagle Pass, Texas. Only two Blues on the Green concerts are left this year. The City Manager will release the budget next week and board members will be given summary sheets soon afterwards. Public hearings on the PARD budget will be on August 12th. Austin is one of four park systems in the running for the best park system in the country. A video, produced by Pard staff, will be shown at the NRPA convention in October, was also shown to the board members.

H. Committee Reports

Programs Committee – Board member Guerrero reported on the Summer Food Service Program. Sixty seven sites were provided 85,658 lunches averaging 2,254 daily. The Department will again apply for this grant next year. She next reported on the STEPS Grant, a grant which will allow us to get additional equipment. This grant provides funds for people with health problems

Land and Facilities Committee: Board member Boyt announced that they have been

involved in two of the items on the today's agenda 1) the 25 year flood plain and 2) the William Archer proposal for Decker Lake. Also, the St. Johns community is still discussing the issue of the name change for the St. Johns Community Center and the Bow Fishing issue is still being addressed. Both sides of the issue addressed the Land and Facilities committee and will return to the committee for more dialogue in the August meeting. Additionally, there is some thought for the Land and Facilities committee to meet twice a month.

Navigation Committee – Board member Small reported that he is concerned that other rowing groups will also ask for dock expansion on Town Lake. He would like to wait until the Long Center is built and redo a survey to see if there is a need for dock expansions on the lake. Discussions on these issues will be addressed in the Concessions committee. Also, the committee is working on proposed guidelines for navigation. Guidelines will be developed to address the needs for permits etc.

I. Items from Board Members

Board chair Castleberry introduced Mark Vane as the new Parks Board member. Mr. Vane briefly introduced himself. Board member Guerrero reported that foundations do not give money unless groups are non-profit. Board member Boyt announced that the Pfluger advisory committee, and will bring back a draft score sheet to the board and will have a final proposal in August or September. Also Capital Metro has adopted Rails with Trails proposal as part of the commuter rail initiative. This will involve a right of way trail from Plaza Saltillo all the way to Leander.

With no further business the meeting was adjourn.

ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 25-7-92 AND 25-7-152 OF THE CITY CODE AND ADDING A NEW SECTION 25-7-96 TO THE CITY CODE RELATING TO ENCROACHMENTS ON THE 25-YEAR FLOODPLAIN.

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

PART 1. Section 25-7-92(A) of the City Code is amended to read:

- (A) Except as provided in Section 25-7-96 (*Exceptions In The 25-year Floodplain*), a [A] site plan may not be approved if a proposed building or parking area encroaches on the 25-year floodplain.

PART 2. Chapter 25-7 of the City Code is amended to add a new Section 25-7-96 to read:

§ 25-7-96 EXCEPTIONS IN THE 25-YEAR FLOODPLAIN.

- (A) A site plan with a proposed building or parking area that encroaches on the 25-year floodplain may be approved if:

- (1) the building or parking area is located on parkland, a golf course, or other recreational land;
- (2) the building, if any, is a restroom or bath facility, concession stand, or pump house, with an area of less than 1,000 square feet;
- (3) the parking area, if any, is smaller than 5,000 square feet; and
- (4) the director determines that the proposed development:
 - (a) will not have an adverse effect on the 100-year floodplain or surrounding properties; and
 - (b) otherwise complies with the requirements of this title.

- (B) A site plan approved under this section must comply with the flood proofing requirements of Chapter 25-12, Article 1 (*Uniform Building Code*).

PART 3. Section 25-7-152(E) of the City Code is amended to read:

(E) For property in the full-purpose limits of the city, the director may grant a variance to Subsection (A) if the director determines:

(1) development with the variance does not result in additional adverse flooding of other property; and

(2) the development:

(a) is permitted by a variance granted under Section 25-7-92(C) (*Encroachment On Floodplain Prohibited*);

(b) is permitted in a floodplain under Section 25-7-93 (*General Exceptions*), Section 25-7-94 (*Exceptions In The Central Business District*), ~~Section 25-7-95 (*Exceptions For Parking Areas*)~~, or Section 25-7-96 (*Exceptions In The 25-Year Floodplain*);

(c) is not a building or parking area; or

(d) is a nonconforming use, as defined by Chapter 25-12, Article 1, Appendix Chapter 59, Section 5903 (*Nonconforming Uses*).

PART 4. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004 §
 §
 § _____
 Will Wynn
 Mayor

APPROVED: _____
 David Allan Smith
 City Attorney

ATTEST: _____
 Shirley A. Brown
 City Clerk



Watershed Protection Development Review

Summary

Proposed ordinance amending Sections 25-7-92 and 25-7-152 of the City Code and adding a new Section 25-7-96 to the City Code relating to the construction of unoccupied building structures or parking areas on recreational lands in the 25-year floodplain and to the dedication of easements and rights of way.

Purpose

Facilities such as restrooms and bathhouses, concession stands, and pump house facilities on recreational lands currently require variance action by the City Council to allow siting within the 25-year floodplain. The purpose of this City Code amendment is to allow administrative approval of construction of certain unoccupied building structures and parking areas on recreational lands within the limits of the 100-year and 25-year floodplains. The proposed amendment will allow the construction of restrooms, bath houses, concession stands and pump house facilities within the floodplain and allow the floor elevation to be less than the Regulatory Flood Datum (100-year floodplain elevation plus 1 foot). To permit this type of building construction, the following conditions must be met: 1) buildings are required to be constructed of materials which are neither hazardous nor vulnerable to loss under flooding conditions, 2) certain building structural requirements must be met to resist the dynamic forces of moving floodwaters, 3) sanitary sewer systems must be designed to eliminate the infiltration of flood water and the discharge of sewage into flood water, 4) provision must be made for equalization of inside-outside hydrostatic pressure under flood conditions, and 5) an engineer/architect must certify that the building design meets these requirements. Additionally, it must be demonstrated by an engineer that the placement of a building or parking area within the floodplain will not have an adverse effect on the 100-year floodplain or on other properties.

Advantages

The City Code currently includes general exceptions (Sections 25-7-93 and 95) that allow unoccupied building construction and parking areas within the boundary of the 100-year floodplain under specific limitations. Buildings must be less than 1000 square feet and parking areas less than 5000 square feet. Additionally, safeguards are in place that require the mitigation of any associated adverse floodplain or health/safety impacts. These limitations and safeguards are carried forward with the proposed City Code amendments to allow these same types of facilities to be constructed within the boundary of the 25-year floodplain on recreational land. Areas of City parkland and private recreational lands such as golf courses are located along creeks in floodplain areas. The proposed City Code amendments will allow the approval process for small facilities to be expedited through administrative processing while maintaining safeguards. The proposed amendments are limited to small facilities; projects, which exceed these size limits, will continue to be presented to the City Council for variance consideration.

Schedule

PARD Land & Facilities Committee	July 20, 2004	Planning Commission	August 10, 2004
Environmental Board	July 21, 2004	Codes & Ordinances PC Sub Committee	to be scheduled
Parks Board	July 27, 2004	City Council	August 26, 2004



ENVIRONMENTAL BOARD MOTION 072104-C1

Date: July 21, 2004

Subject: Code Amendments on Construction in 25-Year Floodplain

Motioned By: Timothy Riley

Seconded By: Karin Ascot

Recommendation

The Environmental Board recommends **disapproval** of the proposed amendments to the City Code Section 24-7-152 and the adding of Section 25-7-96 relating to the construction of unoccupied structures or parking area on recreational lands in the 25-year floodplain and to the dedication of easements and rights of way.

Rationale

Construction and development within the 100-year and 25-year floodplains, even with relatively small structures and parking lots, come with inherent increased risks of generating flood hazards. The effective flood risk reduction of such structures is highly dependent upon appropriate design and more importantly on how these structures are maintained and used over time.

The Board has consistently taken the view that environmental variances should be considered in a public process so that the opportunity for the public to be informed and invited to participate is maintained. This proposal would eliminate that public process and preclude public input on a matter of potentially significant environmental consequence. Environmental variances should be granted only after the highest possible degree of public scrutiny and transparency.

Continued on back

Vote 5-1-0-2

For: Ascot, Leffingwell, Maxwell, Moncada, Riley

Against: Holder

Abstain: None

Absent: Anderson, Curra

Approved By:

Lee Leffingwell, Chair