

# Watershed Protection Ordinance (WPO) Phase 2 Stakeholder Meeting:

## Private Maintenance for Single-Family Residential Subdivisions

July 25, 2014

# Agenda

- Recap: Original Public Maintenance Proposal
- Explore a Private Maintenance Option
- Discussion
- Next steps

# Maintenance & Inspection Continuum

## Level of City Involvement



### Low

- Property-owner maintained
  - Complaint-based inspections only
- Example: Required Trees*

### Medium

- Property-owner maintained
  - City inspections per code (every 3 years)
- Example: Commercial Ponds*

### High

- City maintained
  - City inspections per code (annual)
- Example: Residential Ponds*

- How to best accept responsibility for ever-increasing numbers of single-family residential controls?
- Where to land on the continuum?

# Recap: Concerns about Rain Gardens on Individual Single-Family Properties

1. Larger number of ponds/workload to review, inspect & track (in design, construction & post construction)
2. More complex communication and coordination for inspections and enforcement with homeowners
3. No professional/consistently reliable maintenance (and some rain gardens may be removed entirely)
4. Inaccessibility to inspect (fencing, guard dogs, hostile or absent homeowners, etc.)
5. Difficulty to compel compliance in municipal court
6. City may be asked by owners in future to assume maintenance responsibility

# Recap: Benefits Rain Gardens on Individual Single-Family Properties

- Minimal City cost & interaction with control post-construction
- Straightforward, small-scale maintenance for owner; more sustainable than City inspection vehicles driving around
- Multiple environmental benefits beyond standard compliance: infiltration, water conservation, education
- Maximum design and lot layout flexibility: rain garden size, location with respect to topography
- Underscores City commitment to water-wise development design
- Could use limited application on infill subdivisions to evaluate for more widespread implementation on larger projects

# Public Maintenance Option: Moving Forward Now

Land Use – The use of rain gardens as a water quality control is limited to Commercial, Multi-Family, Civic Uses, Public Right of Way, and single family residential. The restrictions on use for single family residential are as follows:

1. Rain Garden must be located in right of way, dedicated common area, or within drainage easement accessible by standard maintenance equipment from the right of way.
2. Minimum 4 single family lots must be treated by the rain garden.
3. No rain gardens in backyards or fenced in yards.
4. Not allowed in Barton Spring Zone per the Edwards Aquifer Protection Program rules.
5. The City of Austin will provide functional maintenance. Homeowners may add additional native landscaping and provide more frequent care.

Scheduled to become effective in late December 2014.

# Private Maintenance Option

## Under consideration

- How to make it work?
- Focus of today's meeting!

# Private Maintenance Option: When OK to apply?

## When no new infrastructure is required

- Small-scale, single-family residential infill subdivisions
- Staff wants projects with new public streets to have City-maintained water quality controls
  - Could use rain gardens per the public O&M option
  - Large number of lots requires new streets, sewer, drainage, etc.
  - Thus self-limiting
  - Do we need a lot cap?



# Location of Rain Gardens

**Located in front yard or side yard only, not behind fences**

- Addresses concerns about inability to gain safe, adequate, efficient access for inspection and maintenance

**Must locate within drainage easement with field notes**

- NOT just a sketch

# Possible Permitting Path

## Assumptions:

- **Small “resubs” (subdivisions)/infill projects**
- **No Subdivision Construction Plan required (since no roads, very small projects)**
- **No payment-in-lieu of water quality controls (else would not even need rain gardens)**
- **Typically four or more lots in size, (exceed impervious cover threshold, thus requiring water quality; depends on size of lots, etc.)**
- **Typically under 10 lots in size (since would require public roads, etc.)**

# Possible Permitting Path

## Step 1: Submit proposed plat

- Staff determines water quality control required

## Step 2: Apply for Site Plan exemption

- Submit rain garden technical design (volume, etc.)
  - Oversize (e.g., by 20%) to account for loss of storage, etc.?
- Shows how rain garden will be built
- Engineering Review reviews. If approved...

## Step 3: Attach rain garden design to Site Plan Exemption

- Must post fiscal ( $\leq$  \$10,000); returned upon successful construction
- Included as exhibit in the Construction Agreement

# Possible Permitting Path

## Step 4: Plat Approval

- Maintenance Agreement and easement location recorded at County Clerk's Office
- Now it is owner's responsibility to build

## Step 5: Build houses and rain gardens

## Step 6: Engineer inspects, signs, and seals concurrence letter

- Affirms that rain garden is built according to Site Plan Exemption design
- Engineer is the inspector
- City has right to inspect also

# Possible Permitting Path

## Step 7: Fiscal Returned

## Step 8: Home Sale (and all subsequent sales)

- Maintenance Agreement is included in closing documents to acknowledge receipt of rain garden and maintenance responsibility
- Encumbers owner and future owners with maintenance responsibility
- Includes instructions to guide maintenance
- At time of home sale, rain garden must be shown to exist and be in good working order (e.g., septic tanks)

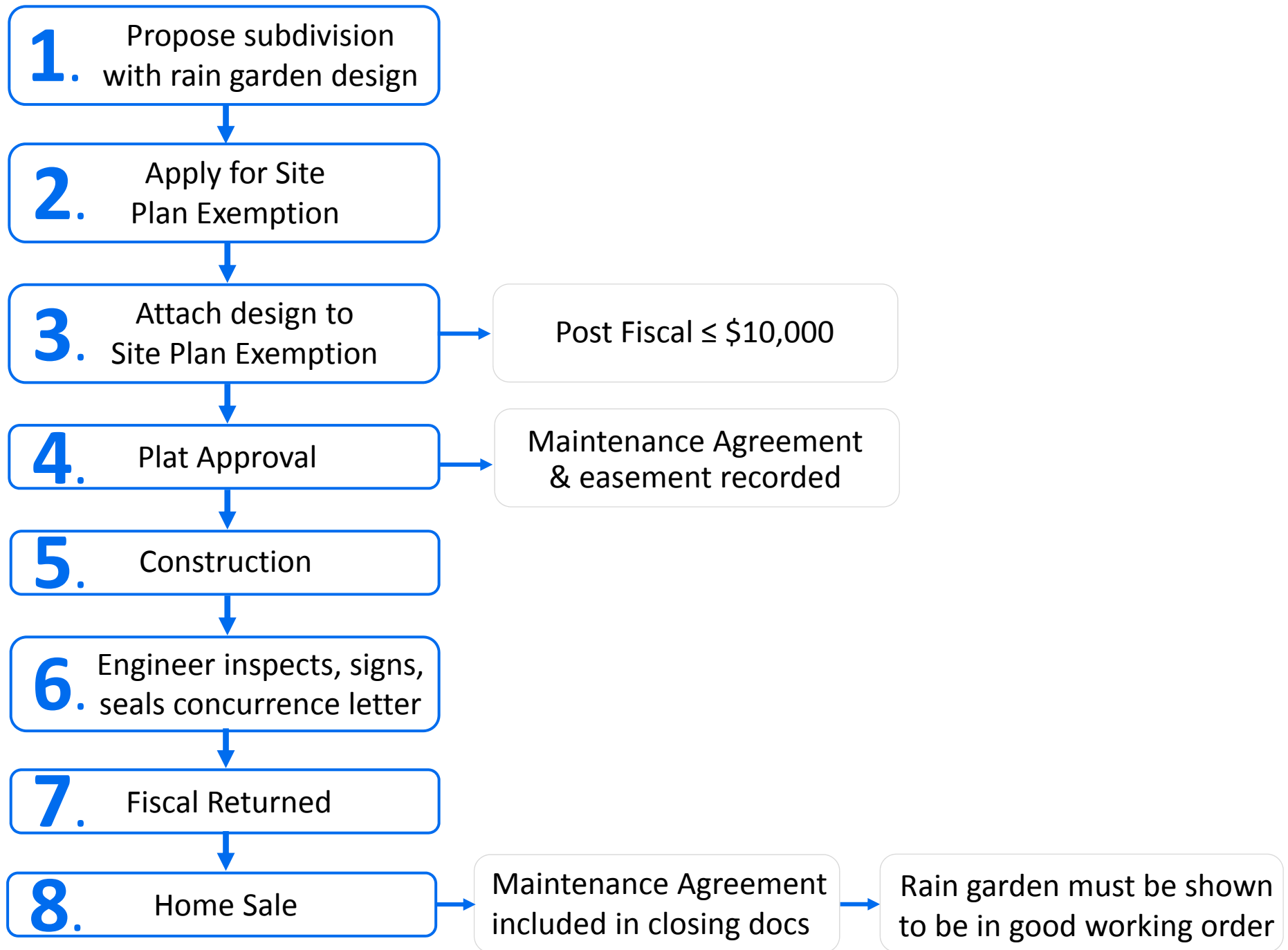
➤ *Determine process to achieve*

# Post-construction Inspection Possibilities

**City has right to inspect during and post-construction**

**Code requires City staff inspection every 3 years  
(applies to all privately maintained ponds)**

- Continue staff inspections indefinitely?
- Evaluate possibility to change to “as needed”/ complaint basis?
- Other verification system?
  - Operating Permit with fee (similar to BSZ Op. Permits)
  - Self-reporting with photo & form (smartphone?)



# Next Steps: Key Dates

**Confer with stakeholders**

**Fall 2014**

**WPD External Stakeholder Meeting**

**January 2015**

**Posting of Notice of Proposed Rule**

**April 2015**



# Contact Information

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