



**ENVIRONMENTAL BOARD MOTION 091008 3b-001**

Date: September 10 2008

Subject: 328 Heartwood SP-2008-0091D

Motioned By: Mary Ann Neely

Seconded By: Mary Gay Maxwell

The Environmental Board recommended conditional approval to a variance request to Land Development Code 25-8-382 1) To allow development in the Critical Water Quality Zone and; 2) Land Development Code Section 25-8-392 - To allow fill up to 7.5 feet.

**RATIONALE**

1. The owner attempted in good faith to get permits.
2. Impacts to water quality and flood plain are negligible. [Vote 4-1] Board member Moncada had a conflict with this item and recused himself from the dais. One vacancy.

**Vote** 4-1-0-1

For: Ahart, Anderson, Maxwell, and Neely

Against: Beall

Abstain: None

Absent:

Recused: Moncada

Vacant: One.

Approved By:

A handwritten signature in black ink, appearing to read "D Anderson", with the initials "P.E." written below it.

Dave Anderson P.E., CFM, Chair



**ENVIRONMENTAL BOARD MOTION AND RESOLUTION 091008 4b-001**

Date: September 10 2008

Subject: Urban Tree Canopy Protection Resolution

Motioned By: Mary Ann Neely

Seconded By: Mary Gay Maxwell

The Environmental Board, along with the City of Austin Tree Task Force and the Urban Forestry Board, offer the attached resolution to address recent damage to the urban tree canopy, and to recognize this resource as an important infrastructure component to the City of Austin.

**Vote** 6-0-0-0

For: Ahart, Anderson, Beall Maxwell, Moncada and Neely

Against: None

Abstain: None

Absent:

Vacant: One.

Approved By:

Dave Anderson P.E., CFM, Chair

**RESOLUTION NO. EB 0910084b-001**

**WHEREAS**, a multifamily construction site plan (Bee Caves Apartments, SP-2007-0442C) was approved by the City of Austin on January 22, 2008, and development activities commenced after the Owner, Contractor, and City representatives discussed various environmental and tree issues at an on-site meeting held February 27, 2008; and

**WHEREAS**, during the weekend of March 8, 2008 a Subcontractor, operating with minimal supervision, cleared an unauthorized area and removed a significant number of trees and vegetation, evidently driving over a limit of construction barrier that delineated the development boundaries into a waterway and drainage easement where a tree survey was not required; and

**WHEREAS**, the City of Austin was contacted by the Owner on the following Monday morning and accompanied a Watershed Protection and Development Review Inspector to the site on March 13, 2008, where a Stop Work Order was issued for development not in accordance with a released site plan, failure to provide adequate erosion and sedimentation control, and failure to comply with protected tree requirements; and

**WHEREAS**, the Contractor hired a private surveying company to perform a tree survey of the removed trees, which remained piled on the site, accounting for 154 trees (8-inches in diameter and greater) totaling 1,440 diameter inches that were removed without a permit, including 23 mature, "protected" trees that were 19" diameter or greater; and

**WHEREAS**, the Stop Work Order was released on March 28, 2008 after the Owner agreed to provide 100% replacement of inch for inch for the tree violations; and

**WHEREAS**, the urban tree canopy is a vital component of the Austin Environment; and

**WHEREAS**, there is the potential to set an unacceptable precedent if trees are removed from a site in excess of those permitted for removal without a significant penalty for those activities, and those responsible for the illegal action held immediately accountable;


**NOW, THEREFORE, BE IT RESOLVED**, that the City of Austin Environmental Board, Urban Forestry Board, and the neighborhood representatives of the neighborhood associating that served on the Tree Task Force requests that City Council direct City Staff to evaluate the following:

1. The implementation of the recommendations of the Tree Task Force immediately.
2. The implementation of more significant fines or other financial implications as a deterrent to these types of activities, such as using the appraised value of the tree as opposed to the mitigated value.

3. The responsible party, in cases where trees are removed from a site in excess of those permitted for removal, be required to provide a plan, which includes provisions for watering and loss replacement, to 100% restoration, successful re-vegetation and that such plan is underway before any additional development activities take place on the impacted site.
4. Increasing the fiscal surety note associated with tree removal activities to \$250/inch.
5. Whether the level of code enforcement necessary to prohibit these types of activities is currently adequate.
6. Posting a bond at the time that development activities begin to cover the immediate mitigation of tree and other environmental harms that may be a result of non-compliance with City Code.

ADOPTED: September 10., 2008

ATTEST:



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David J. Anderson, PE, CFM  
Environmental Board Chair