

Parks and Recreation Board Resolution Regarding Conditional Approval of a Shoreline Modification

WHEREAS the owner of the Property located at 2700 Edgewater Drive improperly constructed a new bulkhead and placed fill in Lake Austin that resulted in significant land capture of the public waters of Lake Austin, and

WHEREAS the City of Austin issued a Stop Work Order upon realization that the Property Owner was constructing a dwelling over and into an area that was filled without proper review and permitting, and

WHEREAS the Property Owner appealed the Director's decision and a public hearing was held on 7 May 2010 before the Building and Fire Code Board of Appeals, which has authority to hear and decide appeals of orders, decisions and determinations made by building officials relating to the application and interpretations of the Building Code, and

WHEREAS the Building and Fire Code Board of Appeals determined the construction was located in an area created by moving the bulkhead without permission or review and voted unanimously to deny the appeal of the Property Owner, and the Property Owner did not further appeal the decision to the City Council, and

WHEREAS the Parks and Recreation Board was then requested to approve an after-the-fact site plan for the bulkhead and fill which had been constructed and placed without permission or review, and

WHEREAS the Parks and Recreation Board was sensitive to the economic impact that the Property Owner would endure to remove the illegally placed fill and bulkhead, as was recommended by Staff, and the Board desired to instead mitigate the negative affects of the Property Owner's actions in reducing the volume of Lake Austin and benefits to the public, and

WHEREAS the Parks and Recreation Board delayed decision at the 22 June 2010 regular meeting pending a review by the City Law department to ensure that the conditions being considered for approval of the site plan permit request were legally enforceable, and held a Special Called Meeting on 15 July 2010 during which the bulkhead construction and shoreline modification as presented to the Board during the hearing were approved with conditions that had been determined by City Law to be legal and enforceable, and

WHEREAS the Property Owner and the City of Austin executed a Restrictive Covenant for 2700 Edgewater Drive on 31 May 2011 to memorialize the regulatory conditions that the Parks and Recreation Board specified with its approval on 15 July 2010, and

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of Shoreline Modification at 2700 Edgewater**

WHEREAS a determination by the Parks and Recreation Board regarding site plans for docks and shoreline modifications is binding for the Director and cannot be appealed to the Land Use Commission or to the City Council, and

WHEREAS the Restrictive Covenant executed on 31 May 2011 for 2700 Edgewater Drive allows for modification, amendment or termination of the Restrictive Covenant to be done administratively by the Director of the Planning & Development Review Department,

NOW THEREFORE BE IT RESOLVED that the Parks and Recreation Board requests that the regulatory conditions that the Board placed with its approval of the bulkhead and shoreline modification at 2700 Edgewater Drive on 15 July 2010 be enforced by the City of Austin, and that any request for modification, amendment, or termination of the Restrictive Covenant be brought before the Parks and Recreation Board and shall not be done administratively.

APPROVED THIS 26th DAY OF JULY 2011 at the regular meeting of the Parks and Recreation Board.

Linda Guerrero, Chair

Sara Marler, Vice-Chair

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DRAFT: 7/15/2011

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