

PLANNING COMMISSION

AUGUST 27, 2013

Handouts

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PART 6. City Code Section 25-8-24 (*Special Exceptions*) is amended to read:
§ 25-8-24 [25] SPECIAL EXCEPTIONS; LIMITED ADJUSTMENT.

(A) Except as prohibited by Article 13[12] (*Save Our Springs Initiative*), a special exception from the requirements of this subchapter may be granted in accordance with Chapter 25-1 (*General Requirements and Procedures*).

(B) If a three-quarters majority of the city council concludes, or a court of competent jurisdiction renders a final judgment concluding that identified sections of this subchapter, as applied to a specific development project or proposal violate the United States Constitution or the Texas Constitution or are inconsistent with federal or state statutes that may preempt a municipal ordinance or the Austin City Charter, the city council may, after a public hearing, adjust the application of this subchapter to that project to the minimum extent required to comply with the conflicting law. Any adjustment shall be structured to provide the maximum protection of water quality.

PART 70. City Code Section 25-1-251 (*Application for Adjustment*) is amended to read:

§ 25-1-251 APPLICATION FOR ADJUSTMENT.

(A) An application for an adjustment under Chapter 25-8, Subchapter A (*Water Quality*) [~~Article 12 (Save Our Springs Initiative)~~] may be considered only in connection with the review of:

- (1) a site plan;
- (2) a subdivision; or
- (3) other specific development project or proposal.

(B) An applicant may file an application for an adjustment with the director.

(C) An application for an adjustment must be on a form prescribed by the director and must include:

- (1) the names and addresses of the applicant and the owner;
- (2) the address and legal description of the property;
- (3) proof that the applicant is either the record owner or the record owner's agent;
- (4) identification of the section of Chapter 25-8, Subchapter A (*Water Quality*) [~~Article 12 (Save Our Springs Initiative)~~] that, as applied to the development project or proposal, the applicant claims violates the United States Constitution, the Texas Constitution, or federal or state statute, and the provisions violated;
- (5) a statement of the factual basis for applicant's claims;
- (6) a legal brief supporting applicant's claims; and

(7) a description of the adjustment requested, and an explanation of how the adjustment is the minimum required to comply with the conflicting law and provides maximum protection of water quality.

PART 71. City Code Section 25-1-252 (*Consideration of Application for Adjustment*) is amended to read:

§ 25-1-252 CONSIDERATION OF APPLICATION FOR ADJUSTMENT.

This section prescribes the order of process for an application for adjustment.

(1) The Law Department shall review an application for adjustment and advise the city manager.

(2) The city manager shall present the application and the city manager's recommendation to the council.

(3) The council shall determine whether application of the identified section of Chapter 25-8, Subchapter A (*Water Quality*)~~[, Article 12 (*Save Our Springs Initiative*)]~~ to the applicant's development project or proposal violates the United States Constitution, the Texas Constitution, or federal or state statute. An affirmative determination requires a three-quarters vote of the city council. If the council does not make an affirmative determination, the application is denied.

(4) This subsection applies if the council makes an affirmative determination under Subsection (3).

(a) The Watershed Protection~~[and Development Review]~~ Department shall review the application and advise the city manager.

(b) The city manager shall present the application and the city manager's recommendation to the council at a public hearing.

(c) After a public hearing, the city council shall:

(i) determine the minimum adjustment required to comply with the conflicting law and provide maximum protection of water quality; and

(ii) grant the adjustment.

PART 91. City Code Section 30-5-23 (*Special Exceptions*) is amended to read:
§ 30-5-23 SPECIAL EXCEPTIONS; LIMITED ADJUSTMENTS.

(A) Except as prohibited by Article 13~~[12]~~ (*Save Our Springs Initiative*), a special exception from the requirements of this subchapter may be granted in accordance with Chapter 30-1, Article 9, Division 4 (*Special Exceptions*).

(B) If a three-quarters majority of the city council concludes, or a court of competent jurisdiction renders a final judgment concluding that identified sections of this subchapter, as applied to a specific development project or proposal violate the United States Constitution or the Texas Constitution or are inconsistent with

federal or state statutes that may preempt a municipal ordinance or the Austin City Charter, the city council may, after a public hearing, adjust the application of this subchapter to that project to the minimum extent required to comply with the conflicting law. Any adjustment shall be structured to provide the maximum protection of water quality.

PART 83. City Code Section 30-1-291 (*Application for Adjustment*) is amended to read:

§ 30-1-291 APPLICATION FOR ADJUSTMENT.

(A) An application for an adjustment under Chapter 30-5, Subchapter A (Water Quality) [~~Article 12 (Save Our Springs Initiative)~~] may be considered only in connection with the review of:

- (1) a site plan;
- (2) a subdivision; or
- (3) other specific development project or proposal.

(B) An applicant may file an application for an adjustment with the director.

(C) An application for an adjustment must be on a form prescribed by the director and must include:

- (1) the names and addresses of the applicant and the owner;
- (2) the address and legal description of the property;
- (3) proof that the applicant is either the record owner or the record owner's agent;
- (4) identification of the section of Chapter 30-5, Subchapter A (Water Quality) [~~Article 12 (Save Our Springs Initiative)~~], that, as applied to the development project or proposal, the applicant claims violates the United States Constitution, the Texas Constitution, or federal or state statute, and the provisions violated;
- (5) a statement of the factual basis for applicant's claims;
- (6) a legal brief supporting applicant's claims; and
- (7) a description of the adjustment requested, and an explanation of how the adjustment is the minimum required to comply with the conflicting law and provides maximum protection of water quality.

PART 84. City Code Section 30-1-292 (*Consideration of Application for Adjustment*) is amended to read:

§ 30-1-292 CONSIDERATION OF APPLICATION FOR ADJUSTMENT.

This section prescribes the order of process for an application for adjustment.

(1) The city law department shall review an application for adjustment and advise the city manager.

(2) The city manager shall present the application and the city manager's recommendation to the council.

(3) The council shall determine whether application of Chapter 30-5, Subchapter A (Water Quality) [~~Article 12 (Save Our Springs Initiative)~~] to the applicant's development project or proposal violates the United States Constitution, the Texas Constitution, or federal or state statute. An affirmative determination requires a three-quarters vote of the city council. If the council does not make an affirmative determination, the application is denied.

(4) This subsection applies if the council makes an affirmative determination under Subsection (3).

(a) The Watershed Protection [~~and Development Review~~] Department shall review the application and advise the city manager.

(b) The city manager shall present the application and the city manager's recommendation to the council at a public hearing.

(c) After a public hearing, the city council shall:

(i) determine the minimum adjustment required to comply with the conflicting law and provide maximum protection of water quality; and

(ii) grant the adjustment.

Same change to
Part 114, § 30-5-261

adding new subsection
(E) ~~(4)~~ (4)

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PART 35. City Code Section 25-8-261 (Critical Water Quality Zone Development) is amended to read:

§ 25-8-261 CRITICAL WATER QUALITY ZONE DEVELOPMENT.

In all watersheds, development is prohibited in a critical water quality zone except as provided in this Division.

* * *

(D) ~~(E)~~ A utility line, including a storm drain, is prohibited in the critical water quality zone, except as provided in subsection (E) or for a necessary crossing. A necessary utility crossing may cross into or through a critical water quality zone only if:

(1) the utility line follows the most direct path into or across the critical water quality zone to minimize disturbance;

(2) the depth of the utility line and location of associated access shafts are not located within an erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and

(3) in ~~the~~ the Barton Springs Zone, is approved [approval] by the director of the Watershed Protection Department [is required for a utility line crossing].

(E) In the urban and suburban watersheds, a utility line may be located parallel to and within the critical water quality zone if:

(1) in an urban watershed and located not less than 50 feet from the centerline of a waterway, or in a watershed other than urban and located not less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway;

(2) designed in accordance with the Environmental Criteria Manual;

(3) located outside the erosion hazard zone, unless protective works are provided as prescribed in the Drainage Criteria Manual; and

(4) the project includes either riparian restoration of ^{an area within the critical water quality zone equal in size to the area of disturbance} in accordance with the Environmental Criteria Manual, or payment into the Riparian Zone Mitigation Fund a non-refundable amount established by ordinance.

* * *

(J) For the purposes of calculating the centerline of a waterway in an urban watershed under this Section, the waterway must have a drainage area of at least 64 acres and be located outside the area bounded by Interstate 35, Riverside Drive, Barton Springs Road, Lamar Boulevard, and 15th Street.





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ENVIRONMENTAL BOARD RECOMMENDATION 20130717 006A

Date: July 17, 2013

Subject: Consider making a recommendation regarding the Watershed Protection Ordinance, amending sections in Chapters 25-7, 25-8, 30-4, and 30-5 relating to drainage and water quality; amending various sections of Titles 25 and 30 relating to environmental protection, and establishing a water supply mitigation fund and riparian zone fund.

Motioned By: James Schissler, P., E.

Seconded By: Mary Ann Neely

Recommendation:

Whereas City of Austin staff has done an exceptional job inviting and incorporating public input and comment, keeping the process transparent, and analyzing how policy options would affect current residents and the environment.

Whereas the Watershed Protection Ordinance revisions reflect a good balance of encouragement of smarter and more responsible development patterns.

Therefore, the Environmental Board recommends approval of the Watershed Protection Ordinance.

Environmental Board Conditions:

1. Remove section 25-8-25 (2) and 30-5-24(2) from ordinance
2. Add transit stops for buses or trains to 25-8-6(C), 25-8-211, 25-8-516, 30 -5-65, 30-5-211 and 30-5-516 in addition to intersection upgrades and bicycle lane additions.
3. Revise language to clarify that trails are allowed in the half Critical Water Quality Zone but outside the Erosion Hazard Zone only if there is not space outside the half Critical Water Quality Zone.
4. Revise language to have maximum trail width of 12 feet in the Critical Water Quality Zone.

Vote: 7-0-0-0

For: Deegan, Gary, Maxwell, Neely, Perales, Schissler and Walker

Against: None

Abstain: None

Absent: None

Approved By:

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Mary Gay Maxwell, Chair

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August 23, 2013

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To Whom It May Concern:

My name is Harold McMillan. I am a property and business owner in the Juniper-Olive District of Central East Austin. My organization operates an outdoor arts, performance space, and community garden in the 1100 block of Juniper and I live at 904 Juniper, just across the street from Franklin's Barbeque Restaurant.

It is my experience, as a neighbor, that Franklin's is a positive asset to our community. They are indeed wildly successful, draw large crowds daily, and because of the quality of their product, they have put our little neighborhood on the map nationally and internationally. This is good for the 11th Street Commercial Corridor as a whole.

I am writing to you today to express my support of their plan to expand their operation on the tract that sits, literally, right out my front door. They are good neighbors. And if this is something that they need to do to better serve the throngs of customers who come daily, I support this. Given the lines of people who wait outside for their 11am opening each day, it would seem that their request is a logical one. With this expansion they will better be able to handle the crowds. And for me, perhaps the person who is currently most personally affected, I support their want to improve and upgrade their facilities and use of the property.

In terms of simple cosmetics and "curb appeal," new construction and better use of their available space on the property will also mean a more attractive business neighbor across the street from my residential neighbors and me on the north side of Juniper.

For these reasons, I want to go on record in support their plans and urge your approval.

Best Regards,



Harold McMillan
Property Owner and Resident, 904 Juniper
Founder/Director
DiverseArts Culture Works

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