



**SP-2021-0278C**  
**2428 W Ben White**  
**Mixed Use Development**  
**APPEAL OF ENVIRONMENTAL OFFICER**  
**INTERPRETATION**



# SITE INFORMATION



Case number: SP-2021-0278C

Project Name: 2428 W Ben White Mixed Use Development

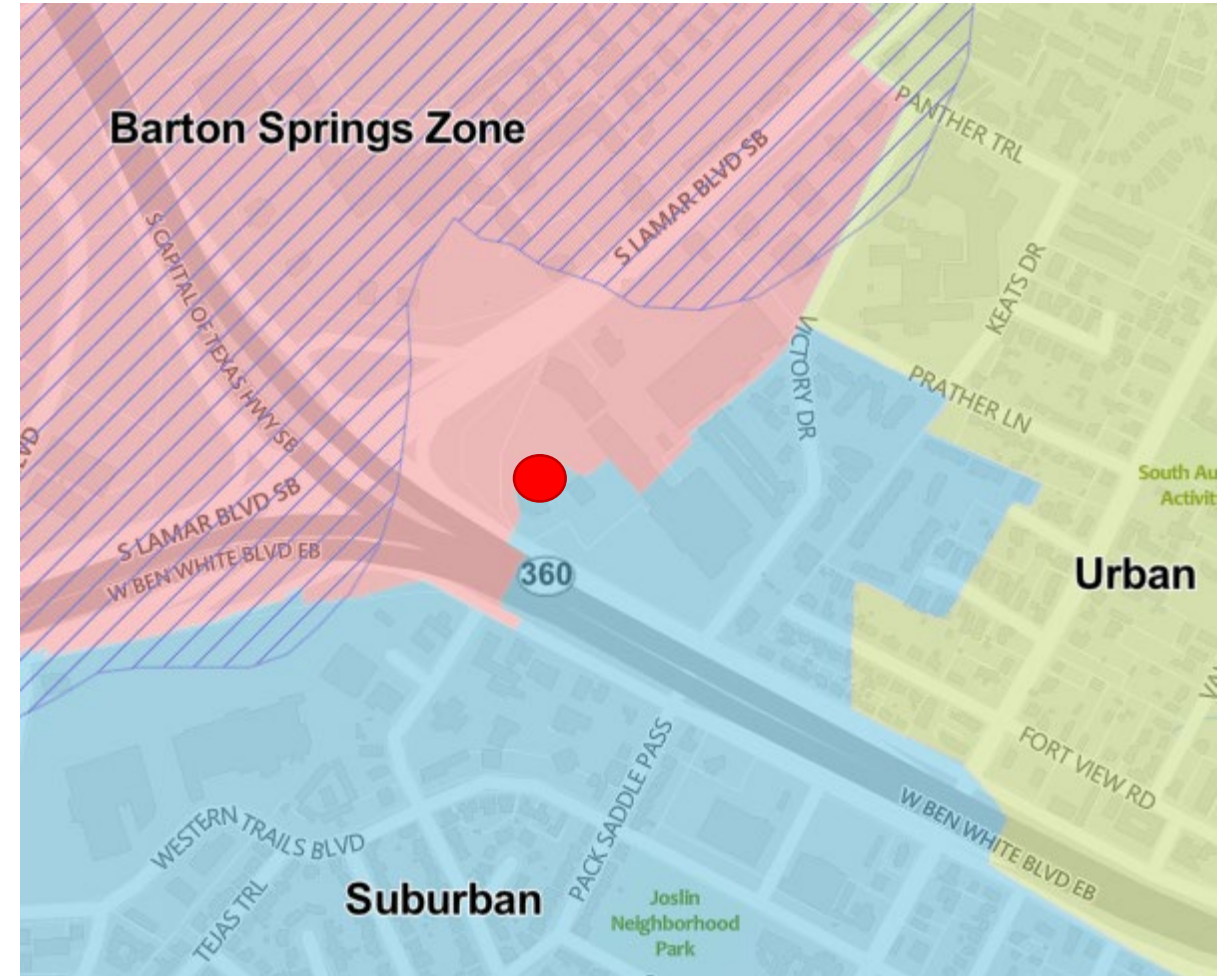
Zoning: CS-V

Proposed Mixed Use Development

Watershed: Barton Creek & Williamson Creek

Watershed Regulation Area: Barton Springs Zone & Suburban

Outside of Edwards Aquifer Recharge Zone



- Site Location
- Barton Springs Zone
- Suburban Watershed Regulations
- Urban Watershed Regulations
- Edwards Aquifer Recharge Zone



# Watershed Regulations

## BARTON SPRINGS ZONE REGULATIONS

- **Save Our Springs Initiative**
  - 20% Impervious Cover (net) in Barton Creek Watershed outside of the Edwards Aquifer Recharge Zone
  - Non-Degradation Water Quality

## SUBURBAN WATERSHED REGULATIONS

- **Watershed Protection Ordinance**
  - 60% Impervious Cover (gross) for Multi-family residential
  - 80% Impervious Cover (gross) for Commercial
  - Standard Water Quality Control Requirements



- Site Location
- Barton Springs Zone
- Suburban Watershed Regulations
- Edwards Aquifer Recharge Zone



# Impervious Cover

Information below was provided by applicant separately at staff's request and is based on existing site conditions. Information contained within the plan set is based on post-development conditions.

## Barton Springs Zone Impervious Cover

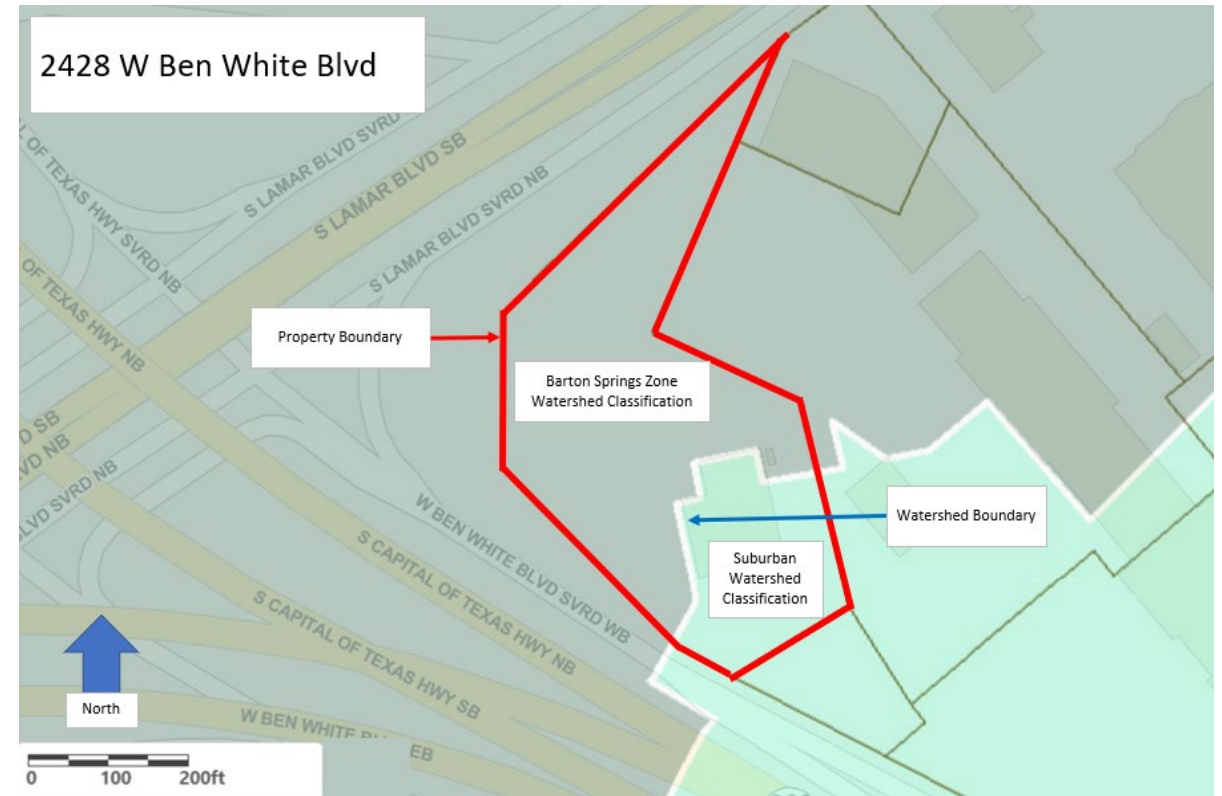
- Existing 50,009 s.f. or 41.09%
- **Proposed 55,004 or 45.20%**

## Suburban Impervious Cover

- Existing 43,669 s.f. or 99.76%
- Proposed 37,734 s.f. or 86.20%

## Overall Impervious Cover

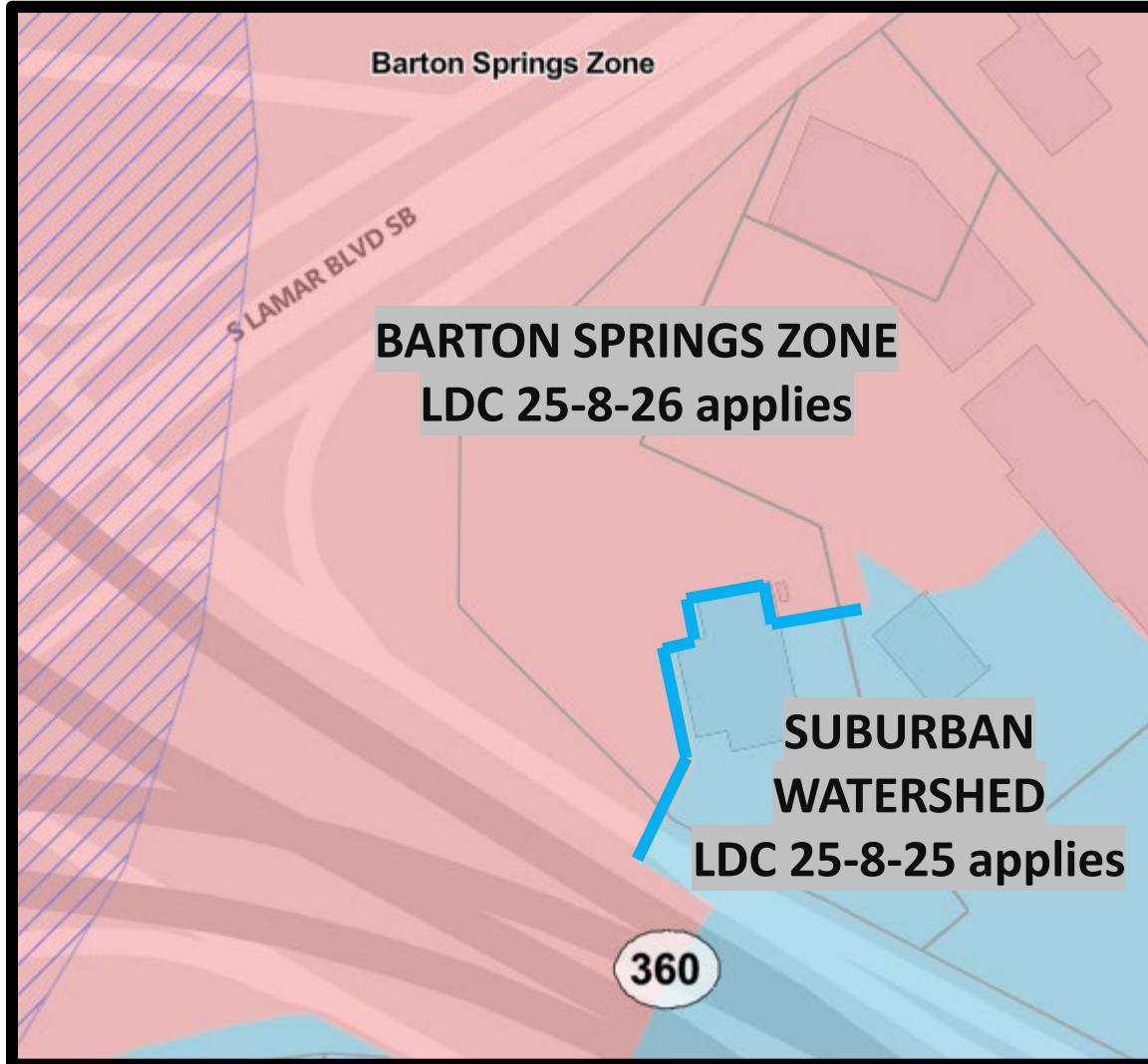
- Existing 93,678 s.f. or 56.61%
- Proposed 92,738 s.f. or 56.05%







# Redevelopment Exceptions

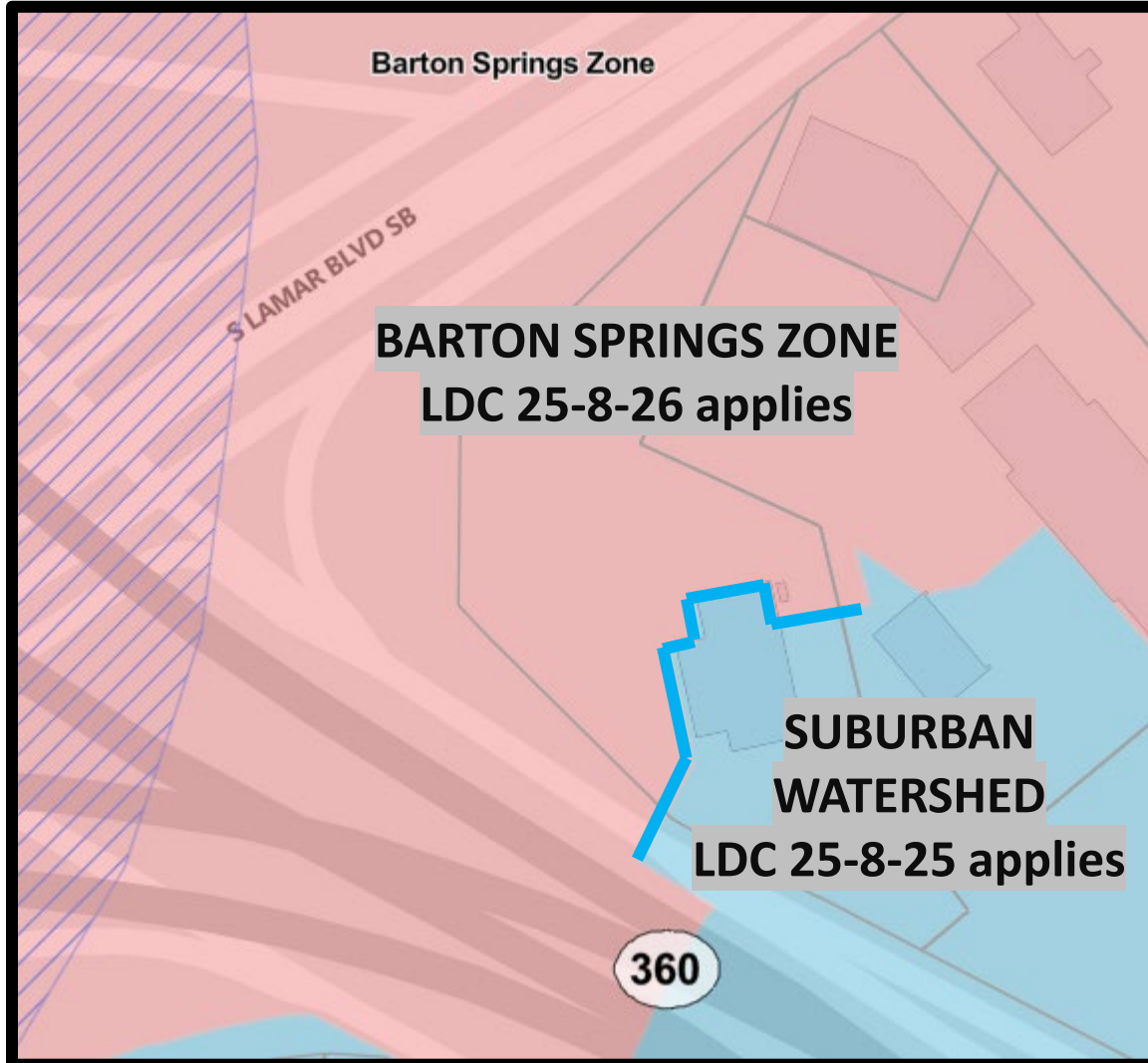


Qualifying projects with existing, non-compliant development may elect to fall under the Redevelopment Exception, which rescinds or adjusts many environmental requirements.

- To qualify for Redevelopment Exception, projects must meet certain conditions, which vary depending on watershed regulation areas.
- BSZ redevelopment exception [LDC 25-8-26] includes more conditions to qualify than the Suburban redevelopment exception [LDC 25-8-26].
- The Redevelopment Exception requires no increase in impervious cover.
- Each side of the watershed boundary must meet conditions separately per LDC requirements because code sections in one watershed regulation area does not apply outside of that area.



# Redevelopment Exceptions



- **City Code Section 25-8-26(A) says that the section "applies to property in the Barton Springs Zone" with existing development that meets certain other criteria.**
- **City Code Section 25-8-25(A) says that the section "applies to property located in an urban or suburban watershed" with existing development that meets certain other criteria.**
- **A portion of the applicant's property is in the Barton Springs Zone, so Section 25-8-26 applies to that portion of the property.**
- **A portion of the applicant's property is in a suburban watershed, so Section 25-8-25 applies to that portion of the property.**
- **Neither section says that it can be applied in any other location.**



# Redevelopment Exceptions

- **Applicant asserts that the “site” in this case means the project boundaries.**
- **Staff interpret this to mean land within applicable watershed regulation area because the applicability of each section is clear in the code language.**
- **Applicant is proposing to increase impervious cover in area classified as Barton Springs Zone, but decrease impervious cover within Suburban Watershed.**
- **Staff do not find that the projects meets requirements of LDC 25-8-26, therefore the project is ineligible for the Barton Springs Zone Redevelopment Exception.**

§ 25-8-26 - REDEVELOPMENT EXCEPTION IN THE BARTON SPRINGS ZONE.

(A) This section applies to property located in the Barton Springs Zone that has existing commercial development if:



# INTERBASIN DIVERSION

- Applicant has proposed to divert water from Barton Springs Zone to a Suburban Watershed.
- Interbasin diversion is allowed in limited circumstances (20% of the site up to an acre) provided the project demonstrates that the diversion is:
  - **The minimum amount necessary to allow development to occur on the watershed divide**
  - **No adverse environmental or drainage impact will occur from diverting water from one watershed to another**





# INTERBASIN DIVERSION

- **Environmental Criteria Manual 1.2.3 says:**

**Regulations specific to a watershed classification (e.g., impervious cover limits, cut and fill requirements, construction on slopes requirements) shall apply to the watershed boundaries as they exist pre-development. Proposing to change the watershed boundary with a diversion of stormwater does not change the applicable environmental regulations, with the exception of water quality treatment. The development shall provide the level of water quality treatment required for the watershed that the stormwater drains to post-development.**

- **Applicant has provided impervious cover information based on proposed conditions, not existing conditions.**



# Summary

- The applicant proposes to adjust the watershed boundary.
- Per ECM 1.2.3., proposing to adjust the watershed boundary does not change the applicable environmental regulations. That is, the environmental regulations do not adjust when a watershed boundary is proposed to shift until after construction is complete.
- The redevelopment exception requires that the project does not increase existing impervious cover.
- Each watershed regulation area within the site must meet the conditions of the redevelopment exception separately based on existing conditions.



# Conclusion

- **Save Our Springs Zone regulations do not allow staff discretion on variances or waivers. Intent of the ordinance is higher level of public input and City Council action.**
- **Applicant may redesign or request that City Council initiate a Site Specific Amendment to 25-8 Article 13 Save Our Springs Initiative.**
- **Environmental Officer code interpretation is based on:**
  - **Plain language of Barton Springs Zone Redevelopment Exception LDC 25-8-26**
  - **Past precedent**
  - **Clear Environmental Criteria Manual (ECM 1.2.3) guidance on applicable regulations when interbasin diversion is proposed**