

December 29, 2022

Mr. Brent Lloyd
Development Officer
City of Austin
Development Services
6310 Wilhelmina Delco Dr.
Austin, TX 78752

Re: Code Interpretation Request for City of Austin Land Development Code §25-8-25
and §25-8-26

Dear Mr. Lloyd:

I am providing this correspondence on behalf of my client, CSW Development, regarding their project at 2428 W Ben White Blvd (the Strait Music Company building) and a request for a code interpretation related to the above-referenced code sections.

The property/site is split into two regulatory areas as defined by the City of Austin Land Development Code – the Barton Springs Watershed and the Williamson Creek watershed. CSW has worked with City staff over the past 12+ months on a site plan for the site and we have been unable to come to agreement on the application of the referenced Code sections.

Both §25-8-25 and §25-8-26 use the term “site” and “property” throughout the Code sections, and it is our contention that the use of either redevelopment exception should be applied to the site/property in its entirety. City staff has taken the position that the cited code references can only be applied to the portion of the site/property that falls within each watershed.

In support of our position, note that “site” is not explicitly defined in the Land Development Code, but there are references to “Construction Site” being defined as “a site or structure for which a building permit or site plan has been issued...” [City of Austin Land Development Code §4-5-1]. As such, the “site” can reasonably be assumed to be the area coincident with the area covered in the Site Plan.

Further, other portions of the cited Code use the term “property.” Texas Property Code defines “property” as “real and personal property” [Texas Government Code 311.005], and the Texas Tax Code defines “real property” as “(A) land; (B) an improvement; (C) a mine or quarry; (D) a mineral in place; (E) standing timber; or (F) an estate or interest, other than a mortgage or deed

of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision. [Texas Tax Code 1.04]. Essentially, this defines “real property” as the land, including structures and other improvements that are embedded into or permanently affixed to the land, owned by a person or entity shown on the City’s ad valorem tax rolls that is responsible for payment of property taxes. The ownership of this real property has been identified on the City of Austin site plan application. Again, it is our position that the “property” should also reasonably be assumed to be the area that is owned as described above.

Neither “site” nor “property” can reasonably be assumed to be only a portion of the project area that falls within a specific watershed but must be considered the overall area coincident with that identified on the Site Plan application. As such, compliance with the regulations stated in §25-8-25 or §25-8-26 cannot only be calculated on the portion of the site in a particular watershed but must be satisfied by considering the site/property as a whole. The Applicant therefore has the right to choose which section shall be applied to the project.

Please consider the facts stated herein and provide us with the City’s position related to our request at your earliest convenience.

Yours truly,



Stephen O. Drenner

Cc: Katie Coyne, Environmental Officer, City of Austin
Robert O’Farrell, CSW Development
Jason Thompkins, CSW Development
Eric Taube, Waller Lansden Dortch & Davis, LLP
Dave Anderson, Drenner Group, P.C.
File