

**SITE PLAN REVIEW SHEET
ENVIRONMENTAL INTERPRETATION APPEAL**

CASE: SP-2021-0278C

PLANNING COMMISSION DATE: May 9, 2023

PROJECT NAME: 2428 Ben White Blvd Mixed Use Development

APPLICANT: Robert Strait, Strait Lakehills, Ltd.

AGENT: Justin Cadieux, Jones Carter, Inc.

ADDRESS OF SITE: 2428 W Ben White Blvd

DISTRICT: 5

COUNTY: Travis

AREA: 3.8 acres

WATERSHED: Barton Springs & Williamson Creek

JURISDICTION: Full purpose

EXISTING ZONING: CS-V

PROPOSED DEVELOPMENT:

The applicant is proposing to construct a mixed-use building.

DESCRIPTION OF APPEAL:

The applicant is requesting to increase non-complying impervious cover using the redevelopment exception, within two watersheds.

STAFF RECOMMENDATION:

Staff recommends upholding the long-standing interpretation that compliance with Watershed regulations be within each watershed rather than the overall site, and that the appeal be denied.

WATERSHED PROTECTION DEPT STAFF: Katie Coyne **PHONE:** 512-968-5176
katie.coyne@austintexas.gov

CASE MANAGER: Christine Barton-Holmes **PHONE:** 512-974-2788
christine.barton-holmes@austintexas.gov



MEMORANDUM

TO: Chair Todd Shaw and Planning Commissioners

FROM: Katie Coyne, AICP, Certified Ecologist -
ESA City of Austin Environmental Officer
Assistant Director, Watershed Protection Department

DATE: March 28, 2023

SUBJECT: Environmental Officer interpretation of the applicability of LDC 25-8-26; Redevelopment in the Barton Springs Zone for SP-2021-0278C, 2428 W Ben White Mixed-Use Development

Summary

This memo is intended to clarify the Environmental Officer's position related to the appeal of the Environmental Officer's denial of a site plan as allowed in Land Development Code (LDC) § 25-5-112. The case is related to a proposed mixed-use development located on a platted lot that contains existing commercial development. The property is located on a watershed divide and is partially located within both the Barton Creek Watershed, which is classified as Barton Springs Zone, and Williamson Creek Watershed, which is classified as Suburban. Because of the existing watershed divide, the site contains differing watershed regulations per LDC Chapter 25-8 Subchapter A - Water Quality. The impervious cover limit in the Suburban Watershed portion of the site is 60% gross site area for multi-family use. The impervious cover limit in this portion of the Barton Springs Zone is 20% net site area within the Contributing Zone of Barton Springs Watershed, per 25-8 Article 13 Save Our Springs Initiative (SOS). Additionally, the SOS ordinance requires that stormwater from all development receive non-degradation water quality treatment.

The existing development located at this property does not comply with current water quality regulations. Specifically, the site does not contain compliant water quality treatment facilities and the impervious cover limit exceeds the allowable amount of impervious cover within the Barton Springs Zone portion of the property. The applicant has requested the ability to use the redevelopment exceptions found within the Land Development Code, which are intended to allow a site to keep the existing non-complying impervious cover, with certain conditions that vary depending upon the watershed regulation area. The key code provision at issue is related to the requirement that no increase in impervious cover shall occur.

Environmental Officer Interpretation

The interpretation at issue is related to applicability of the two different redevelopment exception code sections.

- LDC §25-8-25 Redevelopment Exception in Urban and Suburban Watersheds
- LDC §25-8-26 Redevelopment Exception in the Barton Springs Zone

Both code sections are clear as to what property they can be applied. LDC §25-8-25 begins, "This section applies to property located in an urban or suburban watershed..." and LDC §25-8-26 similarly begins, "This section applies to property located in the Barton Springs Zone..." Therefore, when projects contain more than one watershed regulation area, the land falling within each watershed regulation area must meet the regulations specific to those areas separately based on existing conditions. Land that lies outside of the Barton Springs Zone are not subject to the SOS ordinance. Conversely, land that lies within the Barton Springs Zone cannot exceed the limits placed on the development by the SOS ordinance. In this case, the land that exists in the Barton Springs Zone must demonstrate compliance with LDC §25-

8-26, not LDC §25-8-25, because those sections of code do not apply outside of their respective watershed regulation areas.

The applicant has proposed a project that will place more impervious cover than exists today on the portion of the tract that lies within the Barton Springs Zone, but will not increase impervious cover within the entire tract. One of the conditions of the redevelopment exception is that the future development not increase impervious cover within the “site”. In this case, the Environmental Officer interprets “site” to mean “area subject to §25-8-26 Barton Springs Zone Redevelopment Exception.”

The applicant asserts that they are not increasing impervious cover on the entire tract and therefore they are compliant with LDC §25-8-26. However, in keeping with longstanding precedent, the Environmental Officer has required that applicants demonstrate that they meet each watershed regulation area separately. The area of the site located outside of the Barton Springs Zone must demonstrate full compliance with LDC §25-8-26. Therefore, the site should demonstrate separately that the site does not increase impervious cover on both sides of the watershed divide separately.

The applicant has also suggested that they will regrade the site so that future drainage will move the watershed boundary such that more of the site will be subject to Suburban Watershed Regulation requirements. The Environmental Criteria Manual ECM 1.2.3. is clear in this regard. “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.”

Conclusion

In conclusion, the Environmental Officer’s interpretation that the site may not increase the amount of impervious cover on the portion of the site that lies within the Barton Springs Zone, not the entire property, is keeping with long standing precedent and clear guidance from the Environmental Criteria Manual. The Save Our Springs Initiative was not intended to allow staff the administrative ability to vary or modify code requirements, or loosely interpret code requirements to facilitate development. The applicant could instead request a Site-Specific Amendment to the Save Our Springs Initiative, as intended when the SOS ordinance was passed.

Thank you for your consideration on this important matter.



Katie Coyne, AICP, Certified Ecologist - ESA
(Her/She)

City of Austin Environmental Officer
Assistant Director | Watershed Protection Department

cc: Christine Barton-Holmes, Program Manager III, Development Services Department
Mike McDougal, Environmental Policy Program Manager, Development Services
Department Joydeep Goswami, Land Use Review Division Manager, Development Services
Department Brent Lloyd, Development Officer, Development Services Department
Liz Johnston, Deputy Environmental Officer, Watershed Protection Department



MEMORANDUM

TO: Chair Todd Shaw and Planning Commissioners

FROM: Katie Coyne, AICP, Certified Ecologist - ESA
City of Austin Environmental Officer
Assistant Director, Watershed Protection Department

DATE: April 20, 2023

SUBJECT: Environmental Officer interpretation of the applicability of LDC 25-8-26; Redevelopment in the Barton Springs Zone for SP-2021-0278C, 2428 W Ben White Mixed-Use Development

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Katie Coyne, AICP, Certified Ecologist - ESA
(Her/She)

City of Austin Environmental Officer
Assistant Director | Watershed Protection Department

cc: Christine Barton-Holmes, Program Manager III, Development Services Department
Mike McDougal, Environmental Policy Program Manager, Development Services Department
Brent Lloyd, Development Officer, Development Services Department
Liz Johnston, Deputy Environmental Officer, Watershed Protection Department

Stephen O. Drenner
direct dial: (512) 807-2901
sdrenner@drennergroupp.com

DRENNER GROUP

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



April 28, 2023

Planning Commission,
City of Austin
Via Electronic Delivery

Re: **SP-2021-0278C – Environmental Interpretation Appeal
Support for Environmental Officer’s Decision**

Dear Planning Commissioners,

The Save Our Springs Alliances (“SOS”) respectfully requests that you **DENY** the appeal associated with the above-referenced case number. In your backup material, you will find a memorandum drafted by Environmental Officer Katie Coyne explaining her decision and articulating how it meets the intent of the Environmental Criteria Manual and the Redevelopment Exception in the Barton Springs Zone (LDC 25-8-26). We support her decision and request that you affirm it, as it is consistent with the clear intent of the City Code and decades of prior decisions.

Irrespective of any mitigating language that might be included in any potential motion to approve the appeal, the applicant’s interpretation of Section 25-8-26 of the Land Development Code would set a bad precedent. The Redevelopment Exception was never meant to increase the amount of impervious cover within the Barton Springs Zone. Rather, it was created as an incentive to redevelop properties, while reducing impervious cover within the BSZ or otherwise providing water quality treatment to meet the intent of the SOS Ordinance.

In addition to the rationale provided by City staff, we also do not believe that the portion of the property that Redevelopment Exception would apply to that portion of the site (0.318 acres) that was previously undeveloped right-of-way since vacated by TxDOT. This area was only made a portion of the site in 2022. The Redevelopment Exception only applies to properties that have been developed with and contain existing, permitted commercial development. As the application for the site plan confirms, this section of the property is undeveloped and should be excluded from the calculations for purposes of the Redevelopment Exception.

SOS is not opposed to the project itself or the proposed use of the land, and we are hopeful that the applicant might be able to adjust the site to fit within the requirements of the Redevelopment Exception. We understand there are other outstanding issues that are delaying this development. While those matters are being resolved, we will reach out to the applicant and offer to assist with coming up with potential solutions, if helpful.

Thank you,

Bobby Levinski

Attorney, Save Our Springs Alliance
4701 Westgate Blvd, Ste. D-401
Austin, Texas 78745
512-636-7649 (mobile)
www.sosalliance.org



SP-2021-0278C

2428 W Ben White

Mixed Use Development

APPEAL OF ENVIRONMENTAL OFFICER INTERPRETATION



Appeal of Site Plan

25-5-112 DIRECTOR'S APPROVAL

(C) If the director disapproves a site plan, the applicant may appeal the director's interpretation or application of a requirement of this title to the Land Use Commission by filing a written objection with the director. The applicant may appeal the Land Use Commission's decision on an appeal under this subsection to the council.

25-1-190 APPELLATE BURDEN

The appellant must establish that the decision being appealed is contrary to applicable law or regulations.

25-1-192 POWER TO ACT ON APPEAL

A body hearing an appeal may, in accordance with the requirements of this title, exercise the power of the official or body whose decision is appealed. A decision may be upheld, modified, or reversed.



PROPERTY INFORMATION

Case number: SP-2021-0278C

Project Name: 2428 W Ben White Mixed Use Development

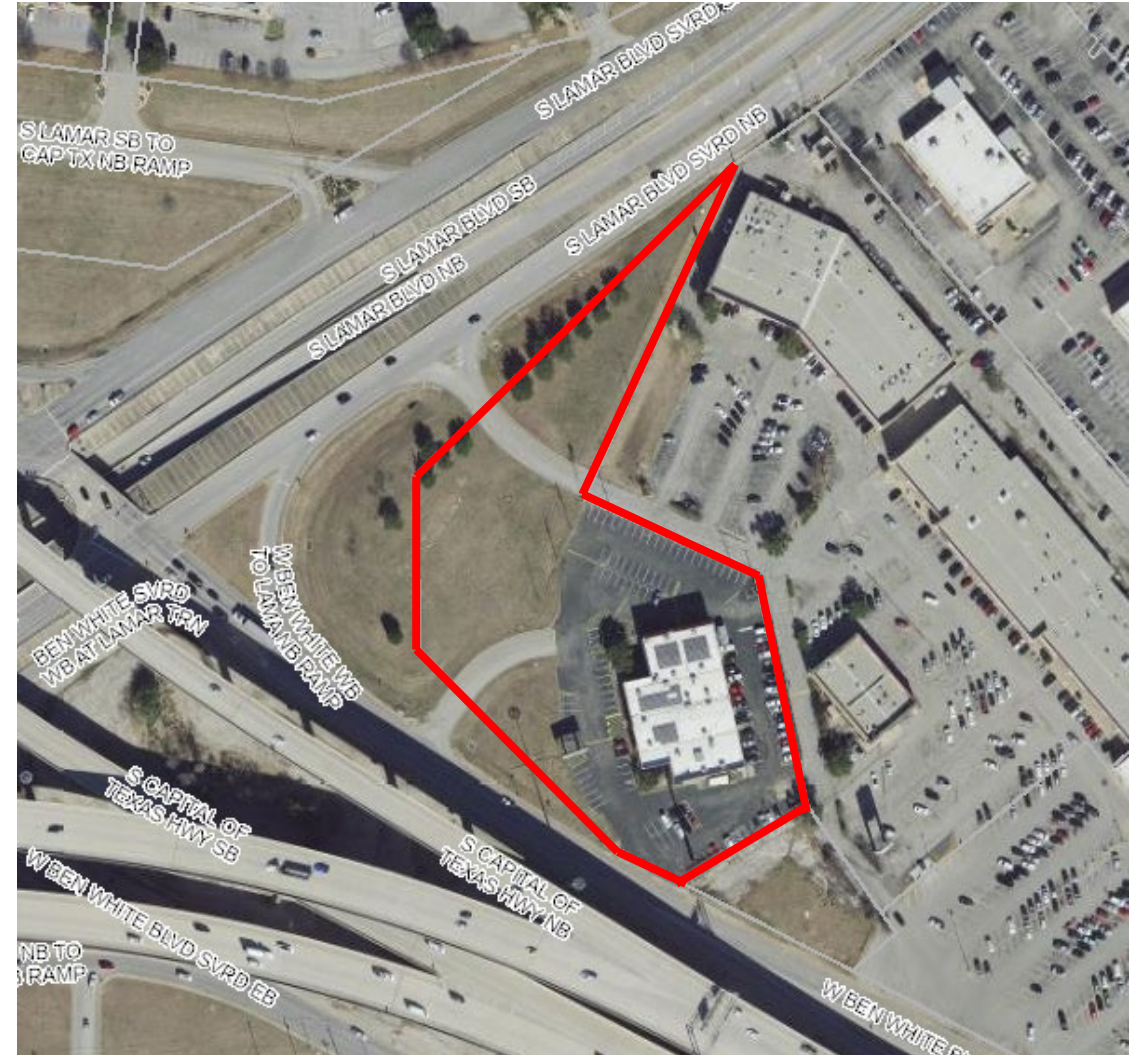
Zoning: CS-V

Proposed Mixed Use Development

Watershed: Barton Creek & Williamson Creek

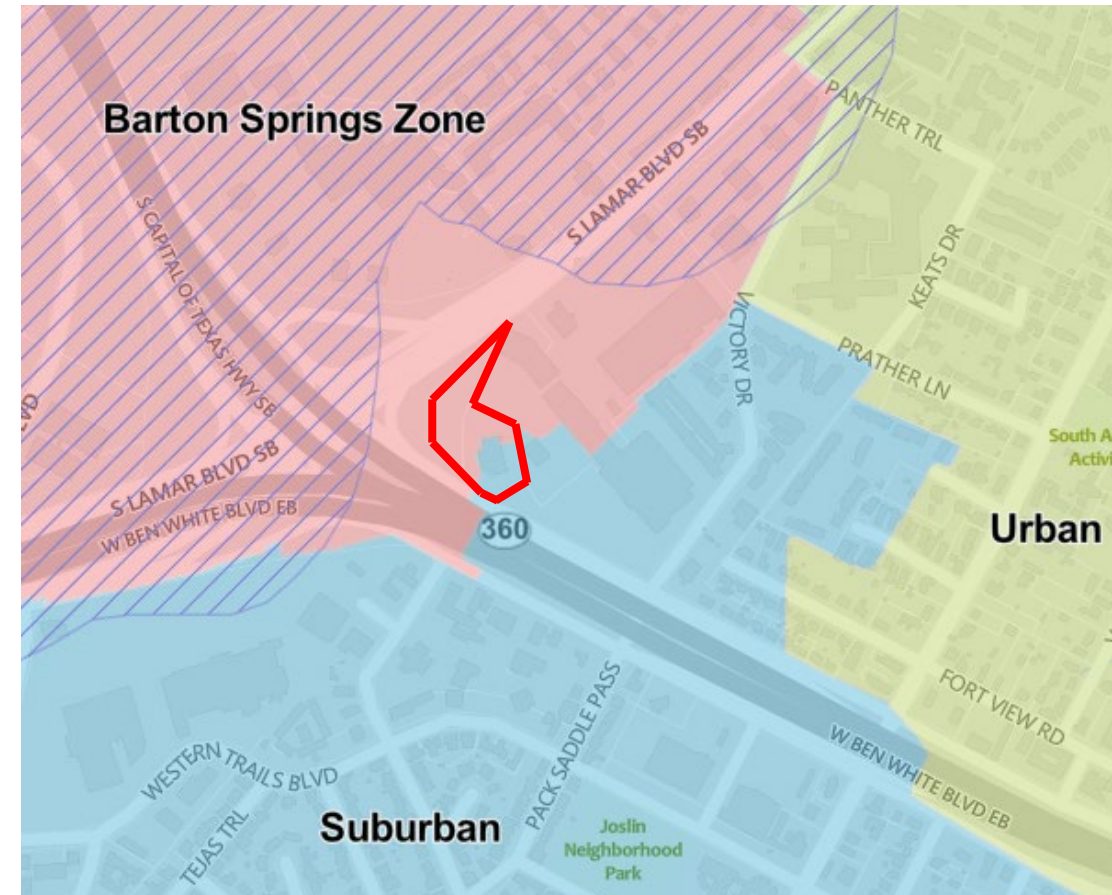
Watershed Regulation Area: Barton Springs Zone & Suburban





Outside of Edwards Aquifer Recharge Zone





PROPERTY INFORMATION



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






Watershed Regulations

BARTON SPRINGS ZONE REGULATIONS

- **25- 8 Article 13 Save Our Springs Initiative**
 - 20% Impervious Cover (net) in Barton Creek Watershed outside of the Edwards Aquifer Recharge Zone
 - Non-Degradation Water Quality Treatment

SUBURBAN WATERSHED REGULATIONS

- **25-8 Article 9 Watershed Protection Ordinance**
 - 60% Impervious Cover (gross) for Multi-family residential
 - 80% Impervious Cover (gross) for Commercial
 - Standard Water Quality Control Requirements

-  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

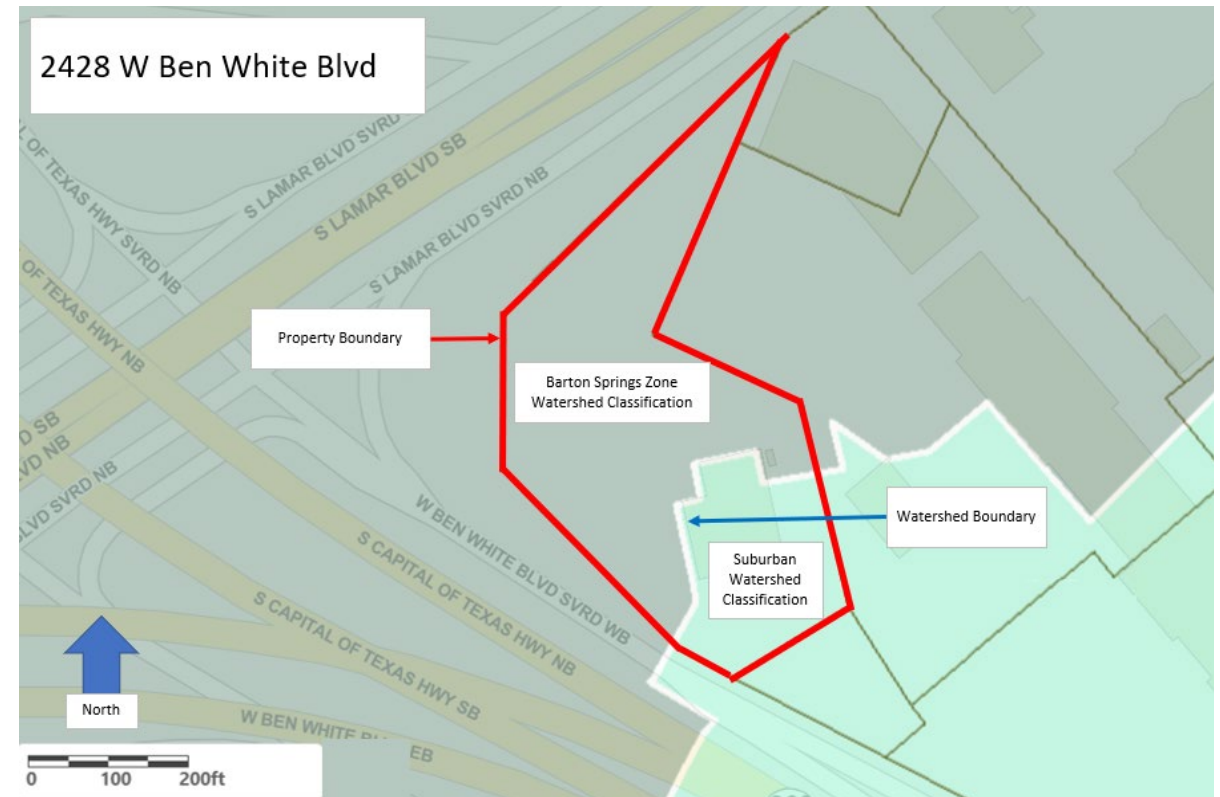
- Existing 50,009 s.f. or 41.09%
- **Proposed 55,004 or 45.20%**

Suburban Impervious Cover

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

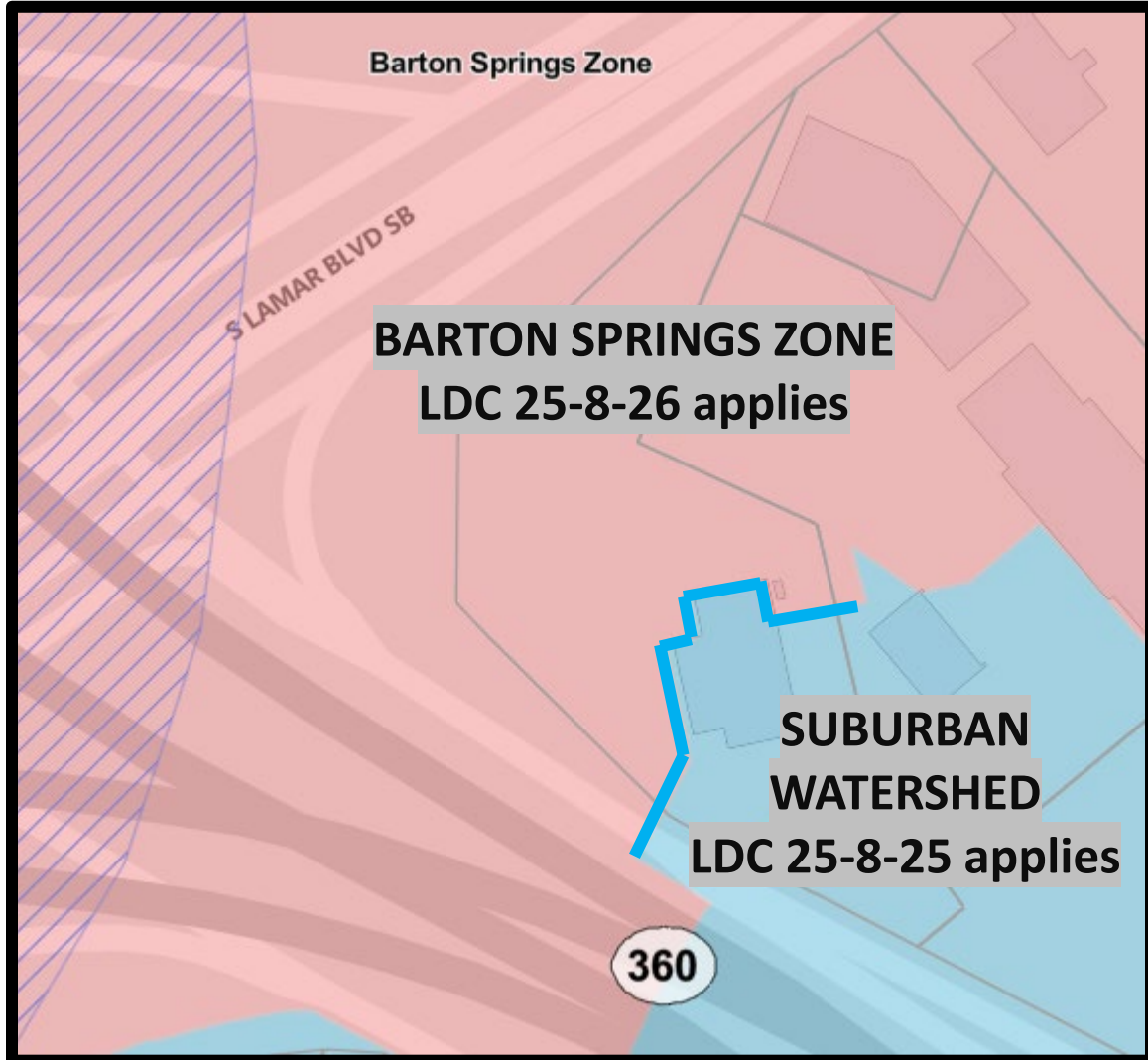
Overall Impervious Cover

- 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].
- 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

25-8-25 REDEVELOPMENT EXCEPTION IN URBAN AND SUBURBAN WATERSHEDS

- (A) This section applies to property located in an urban or suburban watershed that has existing development if:
 - (1) no unpermitted development occurred on the site after January 1, 1992, and
 - (2) the property owner files a site plan application and an election for the property to be governed by this section.
- (B) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.
- (C) The requirements of this subchapter do not apply to the redevelopment of the property if the redevelopment:
 - (1) does not increase the existing amount of impervious cover;
 - (2) provides the level of water quality treatment prescribed by current regulations for the redeveloped area or an equivalent area on the site;
 - (3) does not generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property;
 - (4) is consistent with the neighborhood plan adopted by council, if any;
 - (5) does not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), [Section 25-8-281](#) (*Critical Environmental Features*), or [Section 25-8-282](#) (*Wetland Protection*); and
 - (6) does not place redevelopment within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.
- (D) The redevelopment must comply with [Section 25-8-121](#) (*Environmental Resource Inventory Requirement*) and all construction phase environmental requirements in effect at the time of construction, including [Chapter 25-8](#), Article 5 (*Erosion and Sedimentation Control; Overland Flow*).



Redevelopment Exceptions

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:

- (1) no unpermitted development occurred on the site after January 1, 1992, and
- (2) the property owner files a site plan application and an election for the property to be governed by this section.

(B) For property governed by this section, this section supersedes Article 13 (*Save Our Springs Initiative*), to the extent of conflict.

(C) In this section:

- (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with [Section 25-8-213](#) (*Water Quality Control Standards*) or are approved under [Section 25-8-151](#) (*Innovative Management Practices*); and
- (2) SOS POND means water quality controls that comply with all requirements of [Section 25-8-213](#) (*Water Quality Control Standards*) and the pollutant removal requirements of [Section 25-8-514\(A\)](#) (*Pollution Prevention Required*).

(D) The requirements of this subchapter do not apply to the subdivision of property if at the time of redevelopment under this section subdivision and site plan applications are filed concurrently.

(E) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:

- (1) The redevelopment may not increase the existing amount of impervious cover on the site.

(2) The redevelopment may not increase non-compliance, if any, with Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), [Section 25-8-281](#) (*Critical Environmental Features*), [Section 25-8-282](#) (*Wetland Protection*), or [Section 25-8-482](#) (*Water Quality Transition Zone*).

(3) The redevelopment must comply with [Section 25-8-121](#) (*Environmental Resource Inventory Requirement*) and all construction phase environmental requirements in effect at the time of construction, including [Chapter 25-8](#), Article 5 (*Erosion and Sedimentation Control; Overland Flow*) and [Section 25-8-234](#) (*Fiscal Security in the Barton Springs Zone*).

(4) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.

(5) For a commercial or multifamily redevelopment, the owner or operator must obtain a permit under [Section 25-8-233](#) (*Barton Springs Zone Operating Permit*) for both sedimentation/filtration ponds and SOS ponds.

(6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:

- (a) sedimentation/filtration ponds for the entire site; or

(b) SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the redeveloped site.

(7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.

(8) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (H).

(9) Redevelopment may not be located within the Erosion Hazard Zone, unless protective works are provided as prescribed in the Drainage Criteria Manual.

(F) City Council approval of a redevelopment in accordance with Subsection (G) is required if the redevelopment:

- (1) includes more than 25 dwelling units;
- (2) is located outside the City's zoning jurisdiction;
- (3) is proposed on property with an existing industrial or civic use;
- (4) is inconsistent with a neighborhood plan; or
- (5) will generate more than 2,000 vehicle trips a day above the estimated traffic level based on the most recent authorized use on the property.

(G) City Council shall consider the following factors in determining whether to approve a proposed redevelopment:

- (1) benefits of the redevelopment to the community;
- (2) whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
- (3) the effects of offsite infrastructure requirements of the redevelopment; and
- (4) compatibility with the City's comprehensive plan.

(H) Redevelopment of property under this section requires the purchase or restriction of mitigation land if the site has a sedimentation/filtration pond.

(1) The combined gross site area impervious cover of the mitigation land and the portion of the redevelopment site treated by sedimentation/filtration ponds may not exceed 20 percent.

(2) The mitigation requirement may be satisfied by:

- (a) paying into the Barton Springs Zone Mitigation Fund a non-refundable amount established by ordinance;

(b) transferring to the City in accordance with Paragraph (3) mitigation land approved by the director of the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction;

(c) placing restrictions in accordance with Paragraph (3) on mitigation land approved by the director of the Watershed Protection Department within a watershed that contributes recharge to Barton Springs, either inside or outside the City's jurisdiction; or

(d) a combination of the mitigation methods described in Subparagraphs (a) - (c), if approved by the director of the Watershed Protection Department.

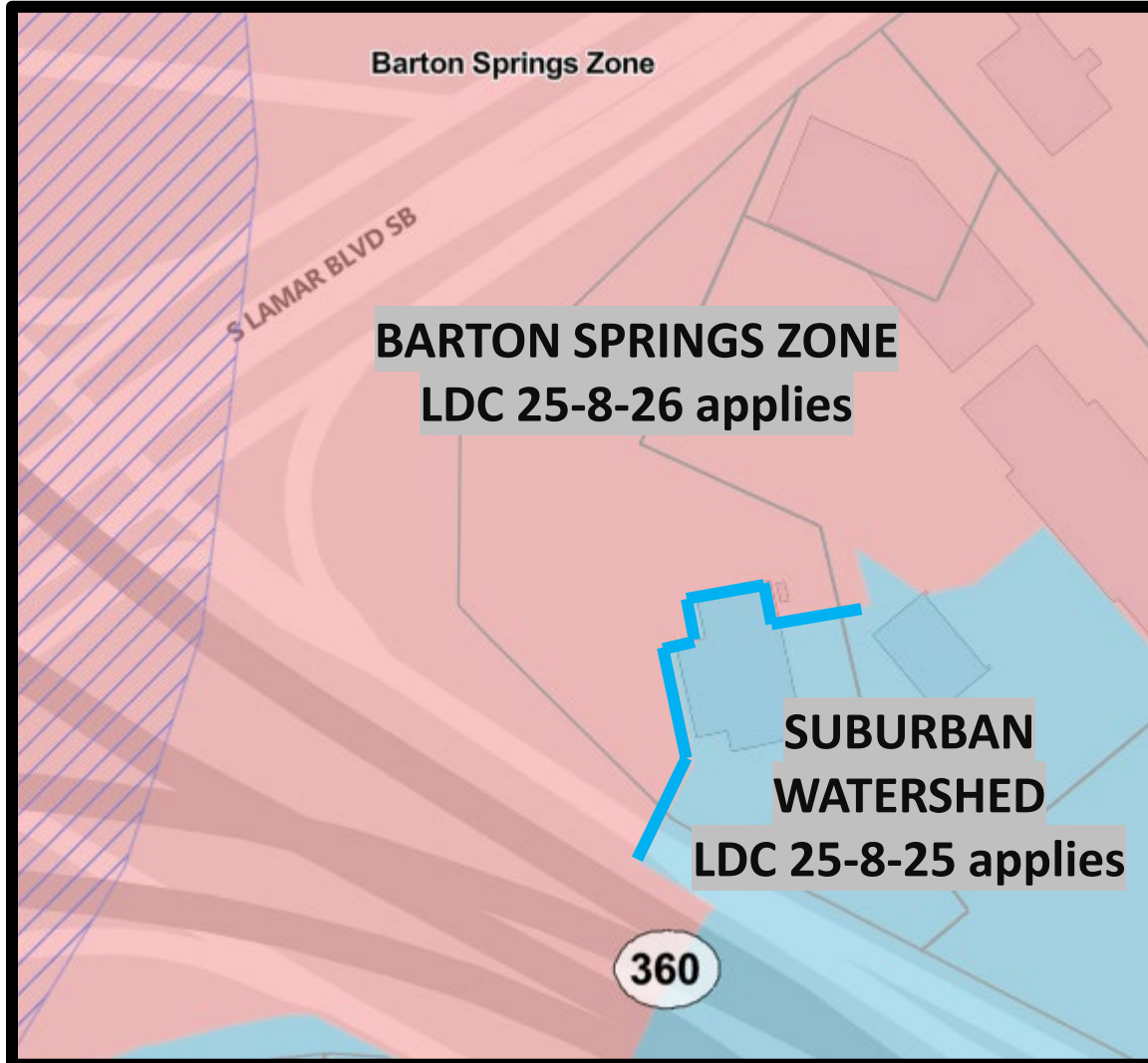
(3) A person redeveloping under this section shall pay all costs of restricting the mitigation land or transferring the mitigation land to the City, including the costs of:

- (a) an environmental site assessment without any recommendations for further clean-up, certified to the City not earlier than the 120th day before the closing date transferring land to the City;
- (b) a category 1(a) land title survey, certified to the City and the title company not earlier than the 120th day before the closing date transferring land to the City;
- (c) a title commitment with copies of all Schedules B and C documents, and an owner's title policy;
- (d) a fee simple deed, or, for a restriction, a restrictive covenant approved as to form by the city attorney;
- (e) taxes prorated to the closing date;
- (f) recording fees; and
- (g) charges or fees collected by the title company.

(I) The Watershed Protection Department shall adopt rules to identify criteria for director approval under this section to ensure that the proposed mitigation, manner of development, and water quality controls offset the potential environmental impact of the redevelopment.



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.



Site Definition

25-1-21 DEFINITIONS

- (106) SITE means a contiguous area intended for development, or the area on which a building has been proposed to be built or has been built. A site may not cross a public street or right-of-way.
- (107) SITE PLAN means a plan for a development, other than a subdivision construction plan, submitted by an applicant to demonstrate that the development complies with the requirements of this title.



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.**

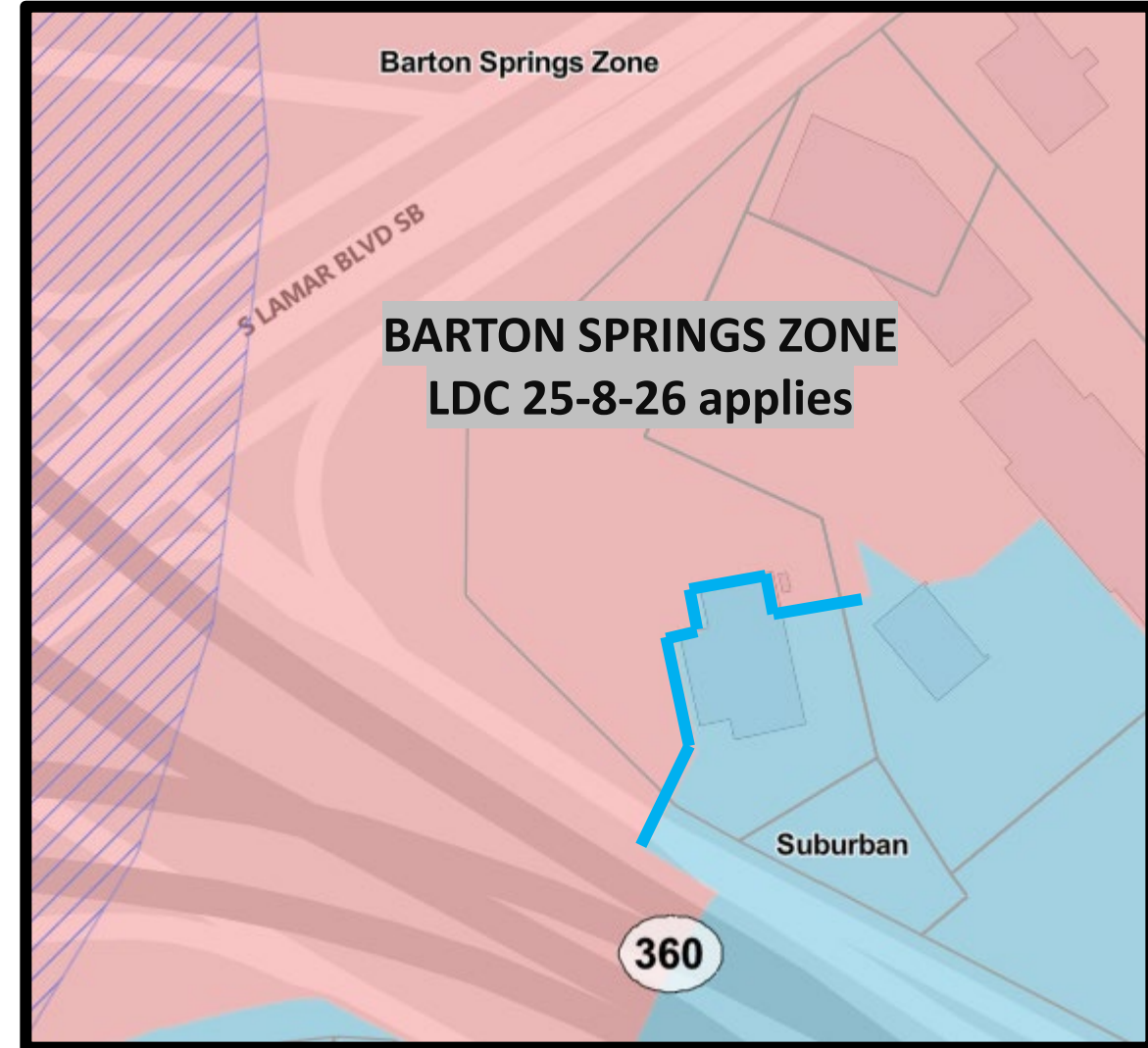
§ 25-8-26 - REDEVELOPMENT EXCEPTION IN THE BARTON SPRINGS ZONE.

(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, on site plan.**



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**



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