



Planning and Zoning Commission Agenda Item Report

Date: Tuesday, September 8, 2020

Agenda Item No. 2020-512- #F.1

Contact: Angela Kennedy

Subject: DELIBERATION AND POSSIBLE ACTION REGARDING A WATER QUALITY REGULATION WAIVER FOR A PROPERTY LOCATED IN THE EDWARDS AQUIFER RECHARGE ZONE BEING 45.6 ACRES OF LAND OUT OF THE PHILLIP J ALLEN SURVEY ADDRESSED AS 1480 S. FM 1626 (V 20-01).

1. Executive Summary

On June 10, 2020, the City received a request for a waiver to the City's water quality regulations limiting impervious cover within the Edwards Aquifer Recharge Zone to facilitate the development of 45.6 acres of land out of the Phillip J Allen Survey at 1480 S. FM 1626 (Kahlbau Property). A portion of this property (3.3 acres) is currently within the Buda City Limits with the remaining 42.3 acres within the City of Buda Extraterritorial Jurisdiction (ETJ).

This item was considered at the July 28, 2020 P&Z meeting, but tabled with a request for additional site layout and use information from the property owner for further consideration. A proposed site development plan has been provided and is attached to this staff report.

2. Background/History

The City of Buda has in place Environmental Protection and Water Quality Regulations adopted under the 2017 Unified Development Code (UDC). These regulations serve as the basis for requiring water quality treatment of stormwater prior to such stormwater leaving a site. Section 4.05.04.A of the UDC establishes that, in order to prevent pollution, impervious cover for all such development shall be limited to a maximum of 15 percent in the Recharge Zone and runoff from such development shall be managed through water quality controls (best management practices) and onsite pollution prevention with the goal that no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, and oil and grease from the site.

Boundaries for the recharge zone are based on previous geologic interpretations of the Edwards Aquifer zones—that is, the recharge, transition, and contributing within the transition zones, as defined in Title 30 Texas Administrative Code Chapter 213.

Section 4.05.04.O of the UDC provides a means of granting a waiver, resting that power with the Planning and Zoning Commission and City Council. A waiver may not be granted if it would provide the applicant with any special privileges not enjoyed by other similarly situated properties with similarly timed development or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after the effective date of the ordinance.

On May 31, 2016, a development agreement was entered by the property owner and the City of Buda. The DA outlines the owner's desire to have 42.322 acres remain in the City's ETJ and consent to the voluntary annexation of 3.309 acres along FM 1626. The property that was annexed is currently zoned B-2 (Arterial Business District).

The entire Kahlbau property is within the Edwards Aquifer Recharge Zone.

3. Staff's review and analysis

Per City of Buda stormwater management regulations, impervious cover for all development in the Edwards Aquifer Recharge Zone shall be limited to a maximum of 15% on a net site area basis per Buda UDC Section 4.05.04.A. The applicant is seeking a waiver to this impervious cover limit on their property. The applicant considers the current impervious cover limit as a major impediment to developing this site to its highest and best use. The property owner is seeking to develop commercial properties along most of the FM 1626 frontage with some type of mixed-use residential/commercial product deeper into the tract. The owner also intends to pursue annexation and zoning to B-2 for the portion of the property in the Buda ETJ. The proposed B2 zoning district has a maximum impervious cover limit of 80%.

To support this request, a geologic assessment of the property was conducted by Terracon in May 2020. The assessment determined that there are no sensitive geologic features, as defined by 30 TAC Chapter 213, observed on the site. The geologic units identified include the Buda Formation and Del Rio Clay which comprise the upper confining unit of the Edwards Aquifer. The Buda and Del Rio Formations are approximately 40 to 50 feet, and 65 feet thick in the area, respectively. There was no faulting observed on site, however the Texas Bureau of Economic Geology has mapped the subsurface Mustang Branch Fault which crosses the far southeastern corner of the site.

Runoff from this site discharges to a small tributary which flows southeast into Onion Creek just upstream of the Antioch Cave recharge feature.

Staff recommends granting the water quality waiver to allow 70% net impervious cover on the site within the City limits but maintain existing water quality treatment requirements to ensure no increases occur in the respective average annual loadings of total suspended solids, total phosphorus, total nitrogen, chemical oxygen demand, and oil and grease from the site as required by Section 4.05.04.H of the UDC. This provision would be extended to the portion of the property currently in the ETJ once annexed.

Additionally, to further reduce any detrimental environmental impact of development on this site, staff recommends requiring at least four (4) low impact development (LID) elements in addition to the required elements from Table 22 in UDC Section 2.09.13 similarly to development requirements in the 1626/967 Community Node for the protection of Onion Creek on any future development on the site within the City Limits.

This item was considered at the July 28, 2020 P&Z meeting, but tabled with a request for additional site layout and use information from the property owner for further consideration. A proposed site development plan has been provided and is attached to this staff report.

4. Financial Impact

5. Summary/Conclusion

Staff recommends that the Planning & Zoning Commission consider this a recommendation of approval. finding that:

- The waiver provides for the minimum departure necessary to avoid deprivation of privileges enjoyed by other property
- The waiver facilitates a reasonable use
- The waiver will not create significant probabilities of harmful environmental consequences

6. Pros and Cons

7. Alternatives

8. Recommendation

Staff recommends that the Planning and Zoning Commission recommend approval of a water quality waiver for the Kahlbau Property with the following provisions:

- Allow a maximum 70% net impervious cover on the site within the City Limits and the ability to extend this provision to the remaining portion of the property once annexed.
- Maintain the water quality treatment requirements in the Edwards Recharge Zone to ensure no net increases occur in average annual pollutant loadings.
- Require at least four (4) low impact development (LID) elements in addition to the required elements from Table 22 in UDC Section 2.09.13 on any proposed future development.