



City of San Antonio

Legislation Details (With Text)

File #: 16-1941
Type: Miscellaneous Item
In control: City Council A Session
On agenda: 4/7/2016
Title: An Ordinance adopting Policy Guidelines for the Municipal Setting Designation Program which certifies designated groundwater at the designated property will not be used as potable water and will be prohibited from future use as potable water through deed restriction. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements]

Sponsors:

Indexes:

Code sections:

Attachments: 1. MSD Boundary Map, 2. Policy and Guidelines DRAFT - updated April 5, 2016, 3. Draft Ordinance, 4. Ordinance 2016-04-07-0247

Date	Ver.	Action By	Action	Result
4/7/2016	1	City Council A Session	adopted	Pass

DEPARTMENT: Transportation & Capital Improvements

DEPARTMENT HEAD: Mike Frisbie, P.E

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Municipal Setting Designation Program Policy Guidelines

SUMMARY:

An ordinance adopting Policy Guidelines for the Municipal Setting Designation Program which certifies designated groundwater at the designated property will not be used as potable water and will be prohibited from future use as potable water through deed restriction.

BACKGROUND INFORMATION:

Municipal Setting Designation (MSD) is a program authorized by the State of Texas in September 2003 which allows municipalities to have jurisdiction for a specific property with known historical shallow groundwater contamination. The MSD designation certifies designated groundwater at the designated property will not be

used as potable water and will be prohibited from future use as potable water through deed restriction. This prohibition must be in the form of a site-specific city ordinance.

Properties impacted by the historical shallow groundwater contamination could be many of the same properties the City has identified as brownfields. These sites include abandoned gas stations, dry cleaning facilities, junkyards, old car dealerships, factories, undocumented landfills and other potentially contaminated properties.

Sites with potential groundwater issues can remain abandoned and unmarketable, they increase inner city blight and perpetuate the perception that redevelopment is risky and expensive. These sites decrease property values, hurt local economies and can threaten community and human health and the environment. Groundwater is the most difficult issue to address because of the unknown costs.

The Cities of Dallas, Ft. Worth and Houston have successful MSD programs and believe that the MSD is a valuable redevelopment tool because it makes infill redevelopment affordable. One consultant stated that the cost to provide all studies and data required under the MSD, as well as application fees in these other Texas cities, is close to \$50,000.00 as compared to the alternative which could be as much as twenty times that amount, which simply means a property will be left abandoned and blighted.

ISSUE:

This ordinance adopts Policy Guidelines for the Municipal Setting Designation (MSD) Program which will be overseen by the Transportation & Capital Improvements Department Environmental Management Division (TCI/EMD).

Under this program, all MSD applications will go through a rigorous review process and culminates in the form of a site-specific city ordinance prohibiting the potable use of groundwater at the MSD designated property through deed restriction.

The review process begins with acceptance that the property is appropriate for redevelopment. Representatives from the City's Economic Development Department, Planning & Community Development, Development Services and Center City Development & Operations Department will initially review the application. Once the Development Review Team has approved the application, the City's Technical Team will begin its review. The Technical Team is composed of representatives from SAWS, Edwards Aquifer, Metro Health, the City's Parks & Recreation Department, Office of the City Attorney, Sustainability, and TCI/EMD. After thorough review and approval by both teams, TCI will recommend a site specific MSD ordinance to City Council.

At a minimum, applicants shall be required to meet the following requirements/restrictions:

- } No MSD will be allowed over the Edwards Aquifer Recharge Zone or within ½ mile of a SAWS pump station
- } Must be enrolled in Texas Department of Environmental Quality (TCEQ) regulatory cleanup program
- } Provide preliminary development plan and environmental studies
- } Provide a geological survey that shows a minimum of 150 foot impermeable barrier between impacted shallow groundwater and drinking water source such as the Edwards Aquifer
- } A qualified environmental engineer must delineate extent of groundwater issues and ensure groundwater is stable
- } Applicant must contact to all property owners within 500' to determine if unregistered wells exist
 - Get the wells registered
 - Coordinate with Edwards Aquifer Authority to assess newly identified wells and properly plug abandoned wells

Additionally, the City will map the location of all MSDs and impacted shallow groundwater and provide information on all wells to SAWS and the Edwards Aquifer Authority.

Staff has coordinated with SAWS, Edwards Aquifer Authority, Greater Edwards Aquifer Alliance and Sierra Club. The guidelines were presented to the Citizen's Environmental Advocacy Committee on February 5, 2016; Neighborhood & Livability Committee on February 15, 2016 and the Development Process Task Force on March 11, 2016. Both Committees support the approval of the Policy Guidelines for the Municipal Setting Designation Program.

ALTERNATIVES:

City Council could choose not to approve the Policy Guidelines for the Municipal Setting Designation Program, however the city will not have guidelines to address future MSD requests and will have to assess these request on a case by case basis without the benefit of an approved policy guideline.

FISCAL IMPACT:

Applicants will be required to pay a \$2,000.00 application fee and a \$6,000.00 processing fee to recover the cost of overseeing this program. Funds will be deposited into the General Fund.

RECOMMENDATION:

Staff recommends approval of the Policy Guidelines for the Municipal Setting Designation Program.