

Memorandum



DATE May 13, 2010

TO Trinity River Corridor Project Committee Members:
David A. Neumann (Chairman) Vonciel Jones Hill
Steve Salazar (Vice-Chair) Delia Jasso
Mayor Pro Tem Dwaine Caraway Linda Koop
Deputy Mayor Pro Tem Pauline Medrano
Carolyn R. Davis

SUBJECT **Proposed Ordinance Changes to Floodplain Regulations**

At the next Trinity River Corridor Project Committee meeting on May 18, 2010, the attached briefing will be presented by Elizabeth Fernandez, P.E., Trinity Watershed Management. This briefing explains proposed floodplain ordinance amendments to assist property owners facing FEMA remapping.

Please contact me if you have questions.



Jill A. Jordan, P.E.
Assistant City Manager



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DALLAS

Attachment

C: Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Ryan S. Evans, First Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Forest E. Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Deborah A. Watkins, City Secretary
Thomas P. Perkins, Jr., City Attorney
Craig D. Kinton, City Auditor
Judge C. Victor Lander
Helena Stevens-Thompson, Asst. to the City Manager
Frank Libro, Director, Public Information Office
Kelly High, Director, Trinity Watershed Management
Rebecca Rasor, P.E., Managing Director, Trinity River Corridor Project

Proposed Ordinance Changes to Floodplain Regulations

Trinity River Corridor Project
Committee

May 18, 2010



THE TRINITY
DALLAS



Background



- On April 21, 2010, City Council was briefed on the Dallas Floodway System which included discussion on FEMA remapping
- Dallas Levee System was most recently accredited by FEMA in 2007
- As part of PI # 9, US Corps of Engineers (Corps) withdrew letter of support for levee accreditation



Background



- As a result of the Corps' withdrawal of support, FEMA began de-accreditation process of the levees in April 2009 which includes remapping of areas that may not protect against a 100-year flood event
- FEMA is responsible for establishing appropriate risk zone determinations and reflecting these determinations on flood maps



Background



- Flooding could occur in two ways along the Trinity River:
 - Due to breach in levee system
 - Due to stormwater runoff trying to make its way to the Trinity River along the sumps that lead to the levees (interior drainage areas)
- Neither provides adequate 100-year protection
- The City is working to repair deficiencies in the levee system and anticipates fixing the levees to satisfy the 100-year protection level before the FEMA maps become effective



Background



- However, the interior drainage system is insufficient and needed improvements will not be completed in time - therefore, it is anticipated that properties within these areas will be remapped as floodplain (FP) on new FEMA maps
- In anticipation of the new FEMA maps, City staff examined the current floodplain ordinance to determine if there were ways to mitigate the impact to properties within the interior drainage areas
 - If new FEMA maps become effective before the levees are repaired, another ordinance amendment may be necessary to address floodplain beyond the limits of the interior drainage areas



Restrictions in a Floodplain



- Article V, “Flood Plain and Escarpment Zone Regulations,” of the Dallas Development Code restricts development activities within FP areas
- These restrictions are necessary to ensure safety and to remain in compliance with the Federal Emergency Management Agency’s (FEMA’s) National Flood Insurance Program and the Community Rating System program, allowing flood insurance and flood insurance discounts



Restrictions in a Floodplain



- In areas not within a floodplain, a property owner may build any allowable use, subject to zoning and other applicable laws
- Within a floodplain, building uses are limited
 - Residential and commercial structures cannot be built within floodplains
 - Permitted uses include farm or ranch activities, utility substations, parks, outside commercial amusement, and microwave towers



Proposed Ordinance Changes



- Two primary concerns are being addressed:
 1. Ensure that structures under construction prior to the new FEMA maps can obtain occupancy approval from the City
 2. Provide a less cumbersome process for fill permits in the interior drainage areas while the City works to upgrade the system



Vested Structures Ordinance Change



- Since construction projects can take a couple of years to complete, a property owner could begin construction on a parcel not within a floodplain but become part of the floodplain once new FEMA maps become effective
- The consequence of this situation would be that, under the current code, the City will not issue approval for occupancy upon completion



Vested Structures Ordinance Change



- Staff recommends amending the ordinance to allow for vesting of structures that obtained a building permit before FEMA's updated maps become effective
- The new ordinance language ensures that a final inspection or certificate of occupancy will not be withheld solely because of an FP designation if a building permit was obtained prior to the new effective maps
- FEMA does not object to this change



Current Fill Permit Process



- Sometimes it is possible to fill a property above the floodplain elevation without causing any adverse impacts to other properties
- Properties designated as floodplain or those in which the City recognizes as having potential to flood may not build without a floodplain fill permit
- A fill permit may be granted if the engineering criteria are met – once approved, the property would be filled to raise it above the flood elevation
- Once the property has been filled, the floodplain designation for the property is removed, FEMA maps are changed, and construction of buildings on the property can proceed



Current Fill Permit Process



- On average, five floodplain fill permit applications are filed annually to create developable property from the floodplain
- Floodplain Management staff examine each application carefully to ensure all criteria are met and City Council approves these applications in a public hearing
- The process to obtain a fill permit takes 4-6 months and requires an abundant amount of documentation from the developer/property owners
- The fill permit fee is \$6,500



Fill Permit Ordinance Changes



- Since the City has completed the hydrologic and hydraulic (H&H) analyses in the interior drainage areas and started work on the interior drainage upgrades, staff recommends the following ordinance changes:
 - Eliminate neighborhood meeting, public notice, and public hearing due to planned informational campaign to these neighborhoods explaining the changes to the regulations
 - Allow for permit approval by Director of Trinity Watershed Management in lieu of City Council approval
 - Reduce fill permit fee to \$1,000



Fill Permit Ordinance Changes



- In addition, staff recommends that for all fill permit applications (those within interior drainage areas and elsewhere in the City), adjacent municipality and newspaper notification would no longer be required



Fill Permit Process



Existing Process	Requirement	Proposed Process Interior Drainage
X	Application to TWM	X
X	H & H Studies	
X	Posting of Notification Signs	
X	Pre-application conference	X
X	Review by Departments for public acquisition	X
	TWM Director Approval	X
X	Neighborhood meeting	
X	Public hearing	
X	City Council consideration	

X = Required Task



Summary and Next Steps



- Changes to the City's floodplain regulations are proposed in anticipation of remapping of FEMA's flood insurance rate maps (FIRM's)
- Approving these changes will mitigate the impact to properties affected by FEMA remapping and ensure that the City is being proactive in anticipating challenges associated with the new FEMA maps
 - Preliminarily scheduled to be effective February 2012, based on a FEMA Letter of Final Determination issued August 2011
- City Council action on proposed floodplain ordinance changes - May 26, 2010



Appendix A



Existing Fill Permit Process within FP

- Applicant hires a civil engineering firm to prepare a report including maps and other exhibits, hydrologic and/or hydraulic studies, and landscape plan
- Notices are sent to nearby owners and persons on the early notification list and a neighborhood meeting is held to explain the project and answer questions.
- Sustainable Development and Construction and Park and Recreation review the application for environmental impact and public acquisition.
- Council must approve the fill permit if all criteria are met, unless it resolves to deny the application and buy the property; Council may, however, deny the fill permit if the applicant has requested a variance on one or more criteria.
- A Letter of Map Revision (LOMR) must be obtained from FEMA, if applicable, before a building permit may be issued.



Appendix B

Draft Ordinance Changes



1. Definition of Interior Drainage Areas: the geographical areas that act as a watershed for the sumps
2. Fee for fill permit for land within the interior drainage area: \$1,000.00
3. Strikethrough of Notice to Adjacent Municipalities and Newspaper
4. New section on completion of vested structures: The building official shall not withhold a final inspection or certificate of occupancy for a structure in an FP area if building permits for the structure were issued by the building official before FEMA's FIRM becomes effective, designating such areas as AA or AE, and the structure otherwise complies with all applicable requirements.



Appendix B

Draft Ordinance Changes



5. Process for removal of an FP designation from an interior drainage area:

Review of application by director. The director of Trinity watershed management may approve an application for removal of the FP designation in interior drainage areas if:

- (A) the director determines the subject area is no longer at risk for flooding based on minimum fill and finished floor elevation,
- (B) removal of the FP designation will not negatively affect valley storage, and
- (C) the removal of the FP designation is for the purpose of constructing structures that conform to existing zoning.

Notification signs not required. If an application meets the criteria in Paragraph (1), the applicant is not required to post notification signs.

Zoning map revision. A letter of map revision must be obtained from FEMA, if applicable, before an FP prefix may be removed from the official zoning district map. A building permit may be issued for construction of underground utilities if a conditional letter of map revision is obtained; however, no building permit may be issued until a final letter of map revision is obtained. Upon approval and receipt of a letter of map revision, the director of Trinity watershed management shall notify the director of sustainable development and construction, who shall remove the FP designation for the subject area from the official zoning district map.

