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625 Waugh Way  
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(713) 859-2406**

**May 25, 2016**

**Stormwater Planning & Design LLC representing Capitol Chevrolet, would offer this Response, which would qualify the 50,010 SF of WQTZ Land as Pollution Control Property, to each:**

- a. Office of Public Interest Counsel Response to Appeal Positive Use Determination**
- b. Travis Central Appraisal District Response to Appeal Positive Use Determination**

**To keep with the concept and interpretation of TCEQ Rule §17.4, Capitol Chevrolet would offer the following for consideration in response to the OPIC and TCAD correct contention that there is pollution control property (riparian rock acting as a structural control) located within the WQTZ (Water Quality Transition Zone), but that;**

- 1) The WQTZ is much larger than 50.010 SF as evidenced by the accompanying Civil Engineering Plan accepted by City of Austin Watershed Protection and Public Works & Engineering Dept.**
- 2) Capitol Chevrolet did not precisely explain that the WQTZ would qualify as Pollution Control Property so as to keep the PUD Application clean and simple and to the point. The Civil Engineering Plan calling out the WQTZ was presented to the TCEQ with the PUD Application as an exhibit, but Capitol Chevrolet did not outline this specific area.**
- 3) To expand on why the 50,010 SF of WQTZ area was not specifically called out, Capitol Chevrolet would offer for clarification that, since the land in general is not graded and sloped in a particular slope towards the stormwater easement (Pleasant Hill Tributary) but, in various runoff areas, it is impossible to specifically identify which areas of the WQTZ capture stormwater sheet flow in a specific direction during a rain event.**
- 4) Capitol Chevrolet has gone to great lengths to examine this Property when dry and after a rain event, to determine that an approximate area of 50,010 SF is directly affected by the riparian rock (located within the WQTZ) acting as a structural control prior to discharging into the MS4 Watershed.**
- 5) This area (50,010 SF) may increase depending on the intensity of the rain event and whether or not if there is ponding water, significant sheet flowing, steady upstream discharges or saturation of the watershed as a result of previous ran events, but a reasonable assertion of 50,010 SF is certainly in line with what property is included in the overall drainage area as evidenced by the Civil Engineering plans accompanying this response.**

**Capitol Chevrolet would answer directly to the specific statements of TCAD;**

**In response to Sect. II Analysis of Property Tax Exemption Status on pg. 2 of TCAD's response, Where TCAD says: According to the Supreme Court of Texas "...exemptions from taxation are not favored by the law and will not be favorably construed" (1). The Court has further stated, "Statutory exemptions from taxation are subject to strict construction because they undermine equality and uniformity" (2)**

**Capitol Chevrolet would argue that**

- (1) North Alamo Water Supply Corp v. Willacy CAD et al. 804 S.W. 2d 894 899 (Tex. 1991).**
- (2) Td.**
- (3) Td.**

We would point out that: **N. Alamo Water Supply Corp. v. Willacy County Appraisal Dist., 804 S.W.2d 894, 899 (Tex. 1991)** ("The assertion that statutory provisions can replace constitutional requirements is erroneous.") does not apply to Capitol Chevrolet as cited by TCAD, because HB1920 became Tax Code 11.31 in Jan 1994 in Texas, and is called out in the Texas Constitution.

Therefore, citing a case law that does not parallel this appeal and does not have any influence on the fact that Capitol Chevrolet has been a good Steward of the Property it owns and has taken extensive measures to protect the Watershed while in Operation in Austin, Tx.

TCAD's Response called out in Sect III Pg. 4 paragraph B (a). It is stated by TCAD that: *"Appellant failed to provide sufficient documentation to establish that the property is in a critical water zone (The correct nomenclature is "Critical Water Quality Zone"), thereby triggering the requirement that at least two acres be set aside".*

**TCAD also asserts that Capitol Chevrolet failed to provide proof in its application that the Property lies with a Critical Water Quality Zones TCAD references City of Austin Ordinance §25-8-93 & §25-8-422 correctly, But, Stormwater Planning & Design did furnish the Civil Engineering Plans to the TCEQ as an exhibit to the Positive Use Determination which clearly calls out on Pg. C-5 of said plans a Critical Water Quality Zone and a "Water Quality Transition Zone" and also calls out both of these Zones in the Impervious Cover Appendix on same page of the Civil Plans.**

**So, TCAD's assertion is without merit and totally false on all counts. There IS a WQTZ (Water Quality Transition Zone) that by Rule, MUST parallel a CWQZ (Critical Water Quality Zone no less than 100 Ft in width that is present on the Capitol Chevrolet Property and does indeed include a structural control being the Riparian Rock & Structural Control which was granted a Positive Use Determination by the TCEQ.**

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**In respect to Office of Public Interest Counsel's Response that Capitol Chevrolet is seeking an exemption for all of the WQTZ (Water Quality Transition Zone) that has a structural control (Riparian rock and structural control) is not all together accurate.**

**Fact is, the Civil Engineering Plans approved by COA, includes more than 55,010 SF of WQTZ, but Capitol Chevrolet was of the mind that only the area that actually influences stormwater runoff as a "Pre-Treatment" filter upstream of the Pleasant Hill Tributary (COA Stormwater Easement) and the Sedimentation Pond should be entitled to be qualified as Pollution Control Property, especially since the Riparian Rock Structural Control lies within that 55,010 SF boundary.**

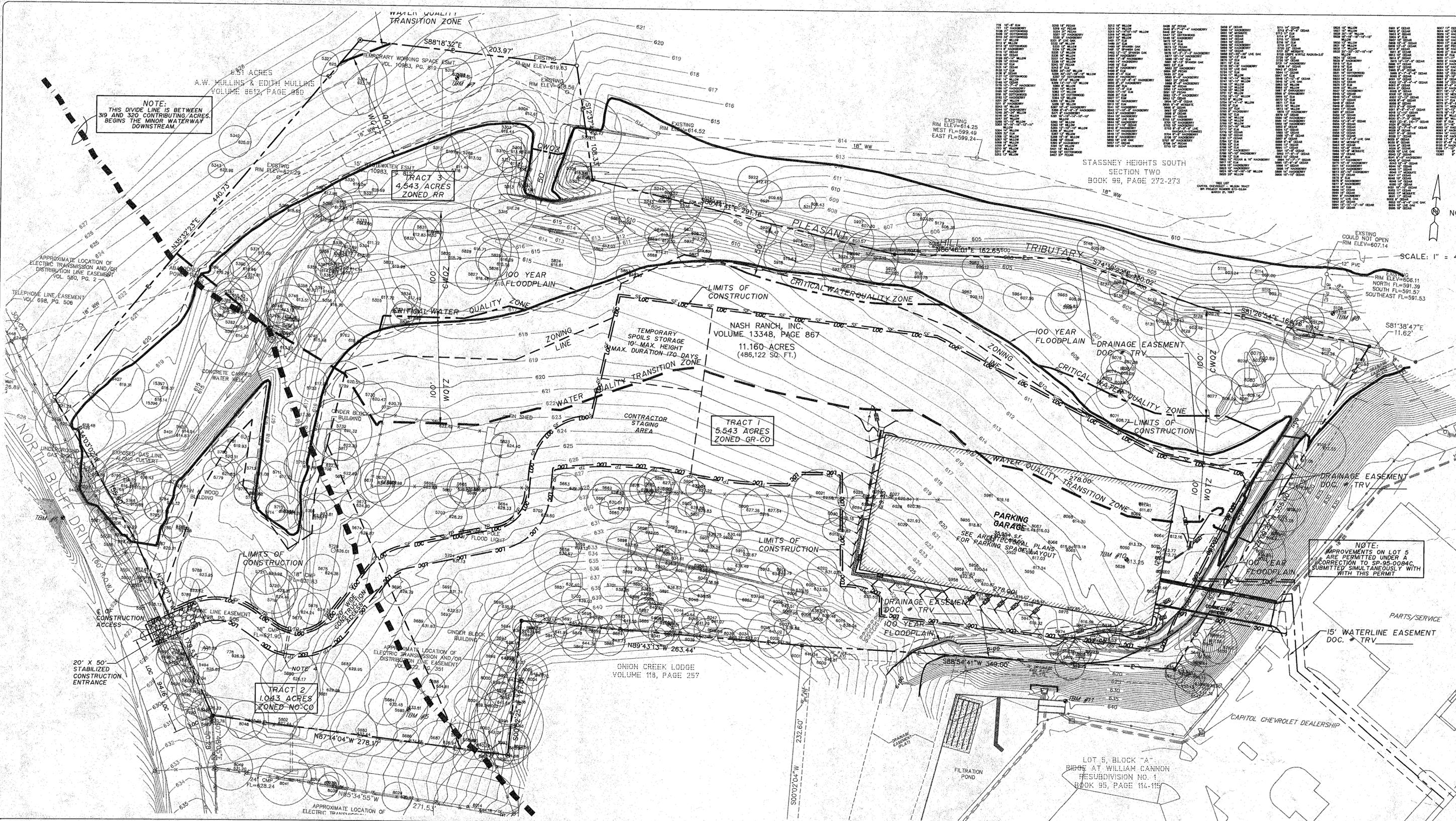
**Conclusion: The Water Quality Transition Zone (WQTZ) that exists in the parcels of land that make up Capitol Chevrolet do in every way help to protect the immediate Watershed during and after rain events, and particularly considering a Riparian Rock Structural Control was also put in place within that 55,010 SF of WQTZ acts in concert to significantly benefit the stormwater runoff from carrying potential pollutants into the City of Austin's Watershed and the Edwards Aquifer.**

**Capitol Chevrolet respectfully requests that the Positive Use Determination be granted for this small area (55,010 SF) of WQTZ that has and shall to continue to improve the level of Water Quality in this part of Austin Tx. and this Segment of the Edwards Aquifer for Years to come.**

**Respectfully Submitted,**

**Michael Euler  
Stormwater Planning & Design LLC  
625 Waugh Way  
Bastrop, Tx. 78602**





NOTE:  
THIS DIVIDE LINE IS BETWEEN  
319 AND 320 CONTRIBUTING ACRES.  
BEGINS THE MINOR WATERWAY  
DOWNSTREAM.

6.51 ACRES  
A.W. MULLINS & EDITH MULLINS  
VOLUME 8612, PAGE 859

TRACT 3  
4.543 ACRES  
ZONED RR

NASH RANCH, INC.  
VOLUME 13348, PAGE 867  
11.160 ACRES  
(486,122 SQ. FT.)

TRACT 1  
5.543 ACRES  
ZONED GR-CO

TRACT 2  
1.043 ACRES  
ZONED NO-CO

ONION CREEK LODGE  
VOLUME 118, PAGE 257

STASSNEY HEIGHTS SOUTH  
SECTION TWO  
BOOK 99, PAGE 272-273

LOT 5, BLOCK "A"  
BIDGE AT WILLIAM CANNON  
RESUBDIVISION NO. 1  
BOOK 95, PAGE 114-115

NOTE:  
IMPROVEMENTS ON LOT 5  
ARE PERMITTED UNDER A  
CORRECTION TO SP-95-0084C.  
SUBMITTED SIMULTANEOUSLY WITH  
THIS PERMIT.

- PROJECT NOTES:**
- CONSTRUCTION ACCESS SHALL BE ON NATURAL GROUND. THE ACCESS SHALL BE RAKED WHEN CONSTRUCTION IS COMPLETE AND THEN HYDROMULCHED.
  - CONSTRUCTION ONTO LOT 5 IS ACCOMPLISHED WITH A SITE PLAN CORRECTION OF SITE DEVELOPMENT PERMIT SP-95-0084C.
  - SEE SHEET C-2 FOR EROSION/SEDIMENTATION NOTES AND DETAILS.
  - LAYDOWN TEMPORARY 24" CMP CULVERT. REMOVE SAME AND ALL FILL MATERIAL PRIOR TO HYDROMULCHING.

AREA WITHIN LIMITS OF CONSTRUCTION IS 2.813 ACRES.  
AREA TO BE VEGETATED IS 9,620 S.Y.

| No. | DATE | REVISIONS | RECORD |
|-----|------|-----------|--------|
|     |      |           |        |

JOE M. BAKER, P.E.  
STATE OF TEXAS-#26324  
BAKER-AICKLEN & ASSOCIATES, INC.

**SITE PLAN RELEASE** Sheet 2 of 18

FILE NUMBER: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_  
CASE MANAGER: \_\_\_\_\_ APPLICATION DATE: \_\_\_\_\_  
APPROVED ADMINISTRATIVELY ON: \_\_\_\_\_  
APPROVED BY PLANNING COMMISSION ON: \_\_\_\_\_  
APPROVED BY CITY COUNCIL ON: \_\_\_\_\_  
under section \_\_\_\_\_ of Chapter \_\_\_\_\_ of the Austin City Code.

Director, Development and Inspection Department

DATE OF RELEASE: \_\_\_\_\_ Zoning: \_\_\_\_\_

Rev. 1 \_\_\_\_\_ Correction 1  
Rev. 2 \_\_\_\_\_ Correction 2  
Rev. 3 \_\_\_\_\_ Correction 3

**Baker-Aicklen & Associates, Inc.** 1201 Whitestone Circle  
Cedar Park, TEXAS 78759 (512) 260-3700  
Engineers/Surveyors

CLIENT: **FIELDS AND ASSOCIATES**

PROJECT: **PARKING GARAGE FOR CAPITOL CHEVROLET**  
600 NORTH BLUFF DRIVE AUSTIN, TX.

TITLE SHEET:  
**EROSION/SEDIMENTATION CONTROL AND TREE PROTECTION PLAN**

DESIGNED: J.W.M. DATE DRAWN: 02/09/2000 PLOT SCALE: 1 = 1  
DRAWN: M.A.T. PROJECT NO: 743-302-11 SCRIPT FILE:  
REVIEWED: J.W.M. XREF: FILE NAME: 02E1002.DWG VIEW:  
APPROVED: J.M.B. CAD FILE NAME: 02E1002.DWG VIEW:

DRAWING NO. **C-7**

SHEET 7 OF 18