

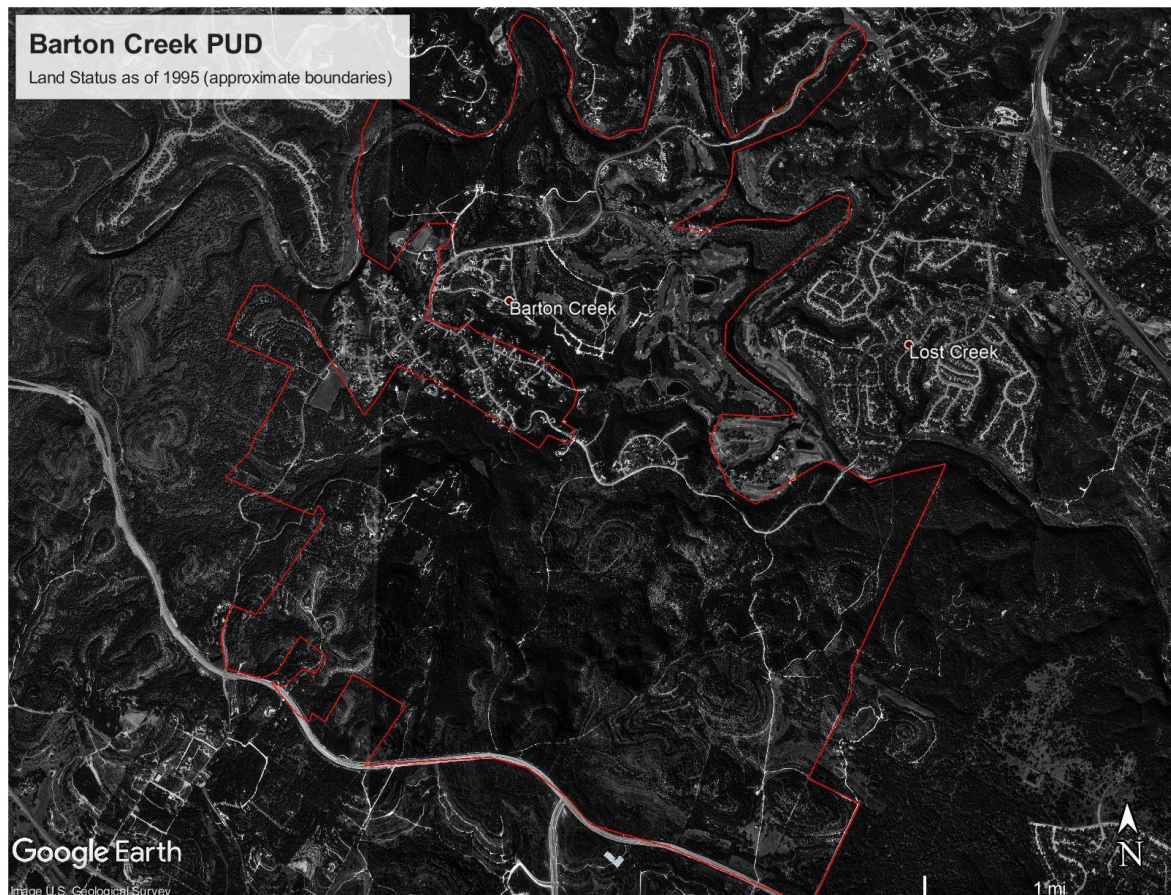
The Barton Creek PUD; 30 Years Later

All those who attended the June 7th, 1990 Austin City Council hearing on the Barton Creek Planned Unit Development (PUD) will never forget it. Some details fade, while others never do. The hearing came to be known as the “Barton Creek Uprising,” It gave birth to the Save Our Springs movement, which in turn became the SOS Coalition Political Action Committee and then the SOS Alliance nonprofit charitable organization of today.

The Barton Creek PUD was a monster—it remains one of the largest planned (sort of) developments ever proposed in Austin. The PUD’s ominous reach spanned over 4,000 acres of mostly undeveloped land within the Barton Creek Watershed, upstream of Barton Springs Pool.

The Barton Creek PUD developers – Jim Bob Moffett of the oil, gas, gold, and copper mining giant Freeport McMoRan and his partner, ClubCorp International CEO Robert Dedman sought City Council approval for over 3.3 million square feet (msf) of commercial development, 2,500 single-family homes, 1,900 apartment units, and 3 all-exclusive golf courses. (For reference, the Barton Creek Mall is about 1.1 msf.)

To make room for this amount of development, the plans for the development included a smorgasbord of land development code waivers and variances—threatening to blast away pristine hilltops, pave over thousands of acres of land needed for aquifer infiltration, and tear through iconic Hill Country oak and Ashe juniper woodlands that were home to the endangered Golden Cheeked Warbler and Black-Capped Vireo.



It took more than 800 Austin residents rising up to speak throughout the night against the PUD to slay the beast during an all-night public hearing. Minute by minute, residents took turns speaking truth to power. Calls to “Save Barton Springs” and “Pound the PUD” echoed through the chambers, until, finally, the Austin City Council voted unanimously to deny the PUD application at 5:30 a.m. the next morning.

But, whatever happened to the Barton Creek PUD?

The great people’s victory of June 7th 1990 was just one part of the story. Like the mythical hydra, when you cut off one head, two more grow back in its place. The PUD’s denial sent a shockwave throughout the development community, giving rise to lawsuits, threats of legislative action, and backroom dealmaking.

Following the rejection of the PUD, Austin’s residents knew how important it would be to adopt more stringent environmental regulations to adequately protect the water quality of Barton Creek and Barton Springs. Efforts to pressure the City Council to strengthen the City’s outdated environmental regulations began immediately, under the umbrella of “Save Our Springs”. The new city council proclaimed that it had heard the message of the June 7th hearing. It promptly adopted a four-month moratorium on new development within the Barton Springs Watershed while a new, stronger ordinance could be drafted and adopted.

Unfortunately, the resolve of the Austin City Council, under the leadership of newly elected mayor Bruce Todd, waned. Developer lobbyists weighed in as always. The Council majority did not take the residents’ concerns seriously and adopted watered-down improvements to the City’s old ordinance. That forced residents to spring into action once again.

The Save Our Springs Coalition formed from the leadership of all of Austin’s environmental organizations. The new SOS Coalition wrote its own ordinance, with guidance from water quality scientists and experienced environmental attorneys. When the council ignored its message “Save Our Springs: If you don’t, we will,” the Coalition collected more than 30,000 signatures, calling for the adoption of the Save Our Springs Initiative Ordinance (“SOS Ordinance”). The citizen initiated ordinance included strict limits on impervious cover for new developments within the Barton Springs Zone and required developers to treat stormwater runoff on-site such that it would not degrade the water quality of Barton Springs.

Despite the clear show of support from more than 30,000 voters and petition-signers, the Austin City Council refused to adopt the SOS ordinance. The council majority went a step further, by refusing to even call an election on the citizen-initiated initiative. The Save Our Springs Coalition was forced to sue the council. The court sided with Austin residents, and the SOS Ordinance was placed on the August 1992 ballot.

But the Council’s delay tactics worked to do one thing—it bought developers more time to submit development plans under their watered-down environmental regulations. While the Council sparred with its residents, the owners of the land for the Barton Creek PUD scrambled to file a series of preliminary plans, reviving much of what they envisioned in the PUD. There were some small improvements, including scaling down the amount of commercial

development by 1 million square feet and dedicating a bit more land to preserves, but the proposed impervious cover would still far exceed that allowed under the SOS Ordinance.

As the August election neared, the developers followed up the preliminary plans with a series of site plans, trying to get their projects underway before the SOS Ordinance would take effect. August came, and the SOS Ordinance was overwhelmingly approved by Austin voters.

With no plans to actually move forward with development, most of the rushed site plans would eventually expire, but developers turned to the Legislator, seeking a bill that would grandfather development with permits filed prior to the adoption of water quality regulations. Fortunately, Governor Ann Richards came to the Springs' defense, vetoing the legislation.

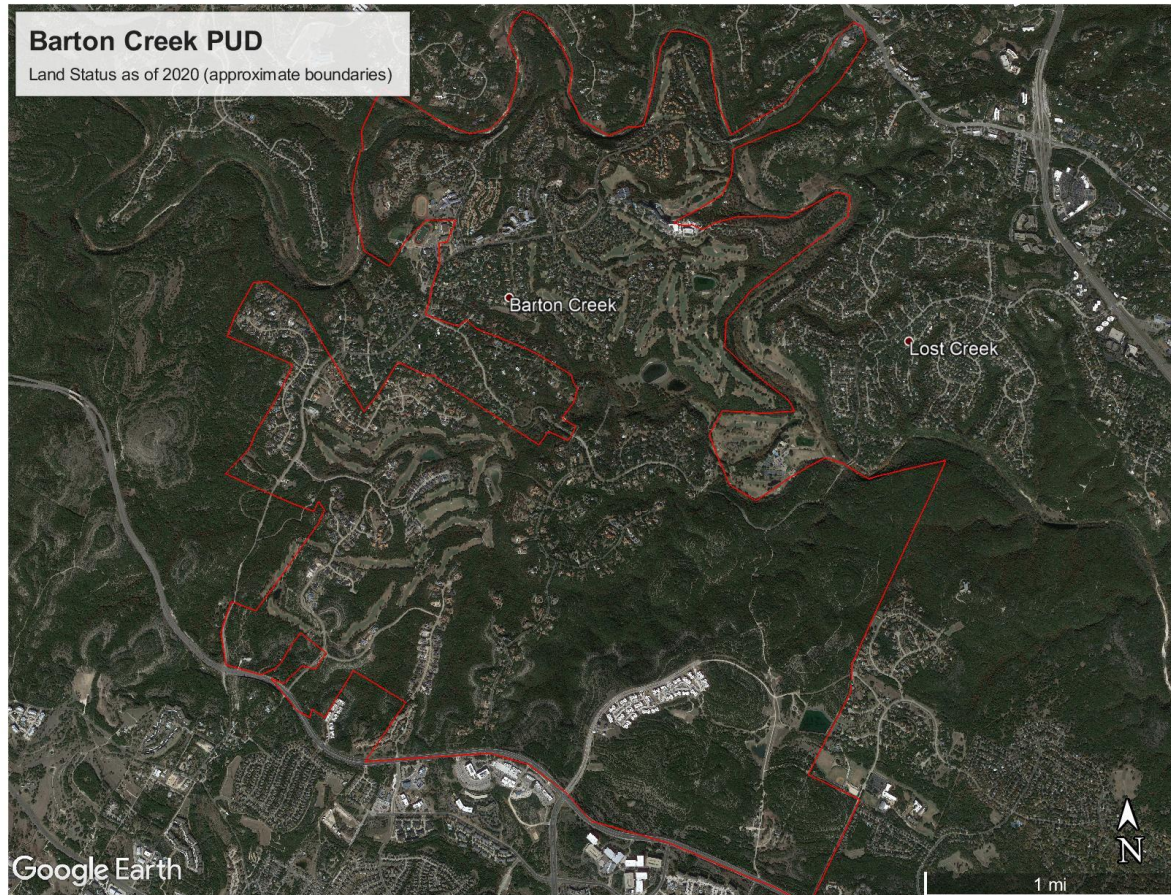
The developers weren't done. They sued the City to invalidate the SOS ordinance. Two years, later, following George W. Bush's defeat of Ann Richards for Texas Governor, they went back to the Legislature with their comprehensive grandfathering legislation.

The developers won the first round in court, with a visiting judge from the Texas Panhandle deciding that the SOS ordinance conflicted with state law in multiple ways. Ultimately, however, then Texas Supreme Court Justice Greg Abbot wrote the majority court opinion upholding the the SOS Ordinance as valid under all Texas laws. The ordinance still stands today.

However, the developers did what developers do best—they again poured money into the pockets of the State Legislature. With "Austin bashing" being a favorite among Texas lawmakers, Jim Bob, Dedman, and their developer friends from around Texas won passage of their grandfathering bill a second time. This time Governor Bush signed it into law – where it also still stands today. , to get the dreaded HB 1704 adopted, putting in place grandfathering (aka, "vested rights") regulations that allowed developers to backdate development regulations based on permits submitted long ago.

For the area of the Barton Creek PUD, this meant they would attempt to backdate any future development of the land to those preliminary plans filed with the City before the August 8, 1992 voter approval of the SOS Ordinance.

Over the years, much of the northern areas of the Barton Creek PUD lands developed, mostly residential subdivisions, and much of that large lot development with low impervious cover. Some of the developments have been developed under current code (subject to the SOS Ordinance), but most of the larger developments have taken advantage of outdated environmental regulations.



The good news is that much of the more intense, commercial development envisioned along Southwest Parkway has not been built. In fact, very little of the proposed 3 million square feet of commercial and 1900 apartments that sparked the Barton Creek Uprising has ever been built.

Also, with SOS environmentalists winning “endangered” status for the Golden-cheeked warbler, Black-capped vireo, and Barton Springs and Austin blind salamanders, the “Barton Creek” development has been forced to develop much more carefully.

Most notably, the Barton Creek developers established the 4,084 acre Barton Creek Habitat Preserve on adjacent land upstream. This land, known as the Uplands and Sweetwater ranches, had been targeted for development along with the original Barton Creek Country Club lands by the late Governor John Connally and former Lieutenant Governor Ben Barnes and their development company. When they went bust in the 1980s Savings & Loan meltdown, Moffett and Dedman assembled the Barton Creek PUD lands, while later partnering with The Nature Conservancy to preserve the Uplands and Sweetwater properties as mitigation for the development of Golden-cheeked warbler habitat on the former PUD lands. The 4,084-acre [Barton Creek Habitat Preserve](#) is now owned and operated by the Texas Nature Conservancy, forever protecting from development a vast swath of Barton Creek watershed.

While the future of the remaining undeveloped portions of the “grandfathered” Barton Creek PUD lands is still somewhat uncertain, there are some promising signs. Recently, Stratus Properties (“Stratus”) – the direct line successor in interest of Moffett’s Barton Creek Properties -- formally withdrew the preliminary plans for 495 acres of the land on the eastern edge of the

once-PUD (otherwise known as Sections K, L, and O). The new plans filed for this area is subject to current code, which includes the SOS Ordinance, significantly reducing the amount of impervious cover allowed to be built and upgrading the water quality facilities to the necessary nondegradation standard.

On the down side, Stratus Properties acquired the 700-plus acres of the “Lantana” property to the immediate south of the Barton Creek PUD lands, on the opposite side of Southwest Parkway. Most of this land has developed out, with high density commercial (most notably the AMD offices) and apartments. (The Lantana property had water and sewer commitments from the City of Austin, making it much more readily developable than the Barton Creek PUD lands.) As with the former PUD lands, Stratus has sought to develop its Lantana property, as well as lands it acquired in the Circle C area on the Barton Springs recharge zone, as “grandfathered” from compliance with the SOS ordinance.

Grandfathering is something the Save Our Springs Alliance battles every day. We will continue to push developers to comply with Austin’s environmental regulations and the SOS Ordinance – while also pushing the city, landowners, and others to place as much of the Barton Springs watershed as possible into permanent protection as parks, preserves, or conservation easement lands.

The fight to protect Austin’s creeks, rivers and springs does not happen on just one night; it is an ongoing battle, fueled by community voices and people like you who care enough to engage their elected leaders. The spark of June 7th 1990 changed the future of Austin, of Barton Springs, and of the Barton Creek watershed. The springs remain remarkably clear, beautiful, and safe for both people and salamanders. While much has been developed since then, even more has been placed in permanent protection.

With more than half of the Barton Springs watershed still up for grabs – neither developed nor protected – the challenge to save our springs continues.

We thank each and every person who stood up for Barton Creek on June 7, 1990, and the thousands of people who have supported SOS’s mission to protect our limited water resources for the last 30 years. Let’s keep going together – loving and protecting the springs for ourselves and for all of those who will follow us in the years, decades, and centuries to come.