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ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0066 – Creekside

Z.A.P. DATE: August 2, 2011
August 16, 2011
September 20, 2011

ADDRESS: 5616 South 1st Street

OWNER: Equilibrium Development
(Brad Schubert)

AGENT: PSW Homes
(Ryan Diepenbrock)

ZONING FROM: GR-CO

TO: SF-6-CO

AREA: 5.922 acres

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant townhouse and condominium – conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay limits development of the property to 45 units and establishes that a building may not contain more than one unit.

ZONING & PLATTING COMMISSION RECOMMENDATION:

August 2, 2011: *PUBLIC HEARING CLOSED; CONTINUED TO AUGUST 16, 2011*
[S. BALDRIDGE; D. TIEMANN – 2ND] (6-0) C. BANKS – ABSENT

August 16, 2011: *PUBLIC HEARING WAS RE-OPENED; APPROVED A POSTPONEMENT TO SEPTEMBER 20, 2011 BY ZAP WITH DIRECTION TO STAFF TO RETURN WITH RECOMMENDATIONS ABOUT HOW TO ACCOMPLISH THE MOST EFFICIENT, ALTERNATE ACCESS POINT FOR THE 45 TOWNHOME UNITS AND EMERGENCY VEHICLES, TO INCLUDE LEISURE RUN ROAD AND CYNTHIA DRIVE*
[S. BALDRIDGE; D. TIEMANN – 2ND] (6-0) G. ROJAS – ABSENT

September 20, 2011:

ISSUES:

Following the August 16th Zoning and Platting Commission meeting, Staff met with the Applicant's representatives and identified additional site development issues that would need to be resolved in order to accommodate townhouses. These include subdivision issues, an update to the Traffic Impact Analysis and a variance to compatibility standards through the Board of Adjustment, and are summarized below. Staff recommends that the subdivision issues described below be resolved prior to moving forward with SF-6 zoning.

Subdivision issues: The original subdivision is known as Fairview Baptist Subdivision Section Two, composed of two lots and was recorded on October 4, 1994 (C8-94-0021.0A). Please refer to Exhibit B-1. Lot 1 contained the Fairview Baptist Church and the subject rezoning area. Lot 2 includes the Walgreens building at the intersection of West Stassney Lane and South 1st Street. (A separate plat includes a portion of the Walgreens parking lot at

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the hard corner of that intersection and does not need to be changed.) The 1994 plat includes two notes that relate to the development of the rezoning area. Note #5 states that, "Development of all lots in this subdivision is hereby restricted to uses other than residential." The purpose of this note is for the property owner to state their intent for either residential or non-residential development of the lot. If the lot is intended to be platted for residential purposes, then park land fees are paid prior to plat recordation. If the lot is intended for non-residential development, then park land fees are not applied. In this case, because the note references non-residential development of the property, park land fees were not applied. Note #16 states that "Access is prohibited to Cynthia Drive and Leisure Run Road."

The resubdivision of Lot 1 included a variance to the requirement that lots in a subdivision accessing a major roadway have at least 200 feet of frontage, and was approved by the Zoning and Platting Commission on October 21, 2008. On February 19, 2009, a resubdivision of Lot 1 (C8-2008-0076.0A) was recorded without vacation of the original plat. The restrictions on the original subdivision continue to apply, however, and therefore a partial vacation of both the original plat and the resubdivision would be required to remove the notes on the plat. A replat would also be required (without the note which prohibits residential development) to allow for townhouse development to occur. Parkland fees would be due at the time of the site plan approval. Plat vacation and replat applications require the signed consent of all property owners involved in the plats, which would include the existing property owner (Equilibrium Development), the church, and Walgreens.

Access to Leisure Run Road and/or Cynthia Drive: Any access to Cynthia Drive from the Creekside site would require the applicant to construct the segment of Cynthia Drive that connects to Nancy Drive. Additionally, if full vehicle access to Leisure Run Road and / or Cynthia Drive is planned for the townhome development, then an update to the Traffic Impact Analysis (TIA) prepared for the 2003 rezoning case would be required. The TIA update would include existing (background) vehicle trips as well as those generated by the proposed zoning at certain intersections (Staff is required to study what would be allowed under the proposed zoning, unless the applicant agrees to limit the development to the 45 townhomes). The TIA update would also look at trips that would be assigned to the previously omitted Leisure Run and Cynthia Drive. The update can be processed administratively, however, notification should be given to the neighborhoods advising them of any change in the recommendations since the restrictive covenant references the TIA and staff memo.

As a more efficient alternative, the property owner may wish to explore obtaining an access easement through the church property to the north to provide a second driveway to South 1st Street. Fire Department staff has reviewed the applicant's conceptual plan to determine their desire for a secondary or emergency access to these streets and shows a preference for the joint access easement for the church property to the north. Transportation review staff notes that if it is the Commission's desire to prohibit access to Cynthia Drive and to restrict access to Leisure Run Road to emergency access only, then this could be accomplished through conditional overlays, and an update to the TIA would not be required. This would still require the two plat vacations and replat as described above, since residential use is prohibited by plat note.

Compatibility Standard Waivers: Access to Leisure Run Road would require a compatibility waiver from the Board of Adjustment, since there is a 25-foot setback in this area and the driveway would encroach across the entire setback. For a driveway to Cynthia Drive, a compatibility waiver would also be required, but this one could be granted by the Zoning and Platting Commission since there would still be at least a 5-foot setback remaining.

Off-site Meeting Held by the Applicant: The Applicant provided information to residents on Leisure Run Road, Nancy Drive and Sahara Avenue about the proposed townhouse development, and scheduled a meeting with interested residents on Monday, June 27, 2011 at Fairview Baptist Church. The Applicant has also contacted a representative of the Far South Austin Community Association.

DEPARTMENT COMMENTS:

The subject lot is undeveloped and zoned community commercial – conditional overlay (GR-CO) combining district by way of a 2003 case. The property has frontage on South 1st Street, an arterial roadway. The unbuilt right-of-way for Cynthia Drive terminates at the west property line and Leisure Run Road terminates at the southern property line. The Traffic Impact Analysis performed with the 2003 rezoning case prohibits vehicular access to these streets. There are retail sales uses to the north that front on West Stassney Lane (GR; GR-CO), single family residences to the east (LO-MU-NP, SF-3-NP), apartments and single family residences to the south (MF-2; SF-3) and a mixture of single family residences and manufactured homes to the west (SF-3; MH). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant has requested townhouse and condominium residence (SF-6-CO) district zoning in order to develop 45 detached townhomes. Exhibit C shows the Applicant's conceptual plan. Staff recommends the Applicant's request, given: the surrounding area includes single family residences, manufactured homes, and multi-family residential uses, and SF-6-CO zoning would be compatible with the established character while further diversifying the housing options available; and 2) it is located in proximity to supporting office, commercial and civic uses.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR-CO	Undeveloped
<i>North</i>	GR-CO; GR	Retail sales (convenience and general); Pharmacy; Church
<i>South</i>	SF-3	Single family residences
<i>East</i>	LO-MU-NP; SF-3-NP	Single family residences
<i>West</i>	MH; SF-3	Manufactured homes; Single family residences

AREA STUDY: N/A

TIA: Is not required

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1/4**WATERSHED:** Williamson Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**

26 – Far South Austin Community Association
 175 – Salem Walk Association of Neighbors
 511 – Austin Neighborhoods Council 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District
 786 – Home Builders Association of Greater Austin
 1008 – Woodhue Community Neighborhood Watch
 1037 – Homeless Neighborhood Association 1075 – League of Bicycling Voters
 1108 – Perry Grid 644 1113 – Austin Parks Foundation
 1116 – Soft Wind Neighborhood Association
 1173 – South Congress Combined Neighborhood Plan Contact Team
 1187 – South Austin Neighbor Awareness Project
 1200 – Super Duper Neighborhood Objectors and Appealers Organization
 1224 – Austin Monorail Project 1228 – Sierra Club, Austin Regional Group
 1236 – The Real Estate Council of Austin, Inc.
 1276 – South Congress Neighborhood Plan – COA Liaison

SCHOOLS:

Odom Elementary School

Bedichek Middle School

Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-05-0105 – Sweetbriar Neighborhood Planning Area Rezoning – Stassney Lane to the North; IH-35 to the east; William Cannon Drive on the south, South 1st Street on the west	Rezoning of 43 tracts of land	To Grant	Approved (8-18-05).
C14-05-0010 – 5805 Nancy	MH to SF-3	To Grant	Approved SF-3 (4-14-05).

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RELATED CASES:

The subject property, along with adjacent property to the north fronting West Stassney Lane and the east fronting South 1st Street was rezoned to GR-CO on October 30, 2003 (C14-03-0099 – Stassney South First Retail). The Conditional Overlay prohibits automotive-related uses, including service station, exterminating services and pawn shop services; restricts a food sales use to 10,000 square feet in size, prohibits a loading facility within 50 feet of the property line, and limits height of a building or structure to 40 feet. There is a public Restrictive Covenant for the conditions of the Traffic Impact Analysis as well as a private Restrictive Covenant that requires a 6-foot tall split-face concrete masonry wall along the west and south property lines, a pedestrian walkway from the property to Leisure Run Road, and places restrictions on amplified outdoor music and outdoor vendors. The TIA memo which is referenced in the 2003 public Restrictive Covenant is provided as Attachment 1. The private Restrictive Covenant is provided as Attachment 2.

The property is platted as Lot 1 B of Turtle Creek Commercial Subdivision, a Resubdivision of Lot 1, Fairview Baptist Subdivision Section Two, a plat recorded on February 19, 2009 (C8-2008-0076.0A). There are no pending site plan applications on the subject property.

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
South 1 st Street	88 feet	MAU 4	Arterial	Yes	Yes	No

CITY COUNCIL DATE: August 25, 2011

ACTION: Approved a Postponement request by the Staff to October 20, 2011 (7-0).

October 20, 2011

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Wendy Rhoades
e-mail: wendy.rhoades@austintexas.gov

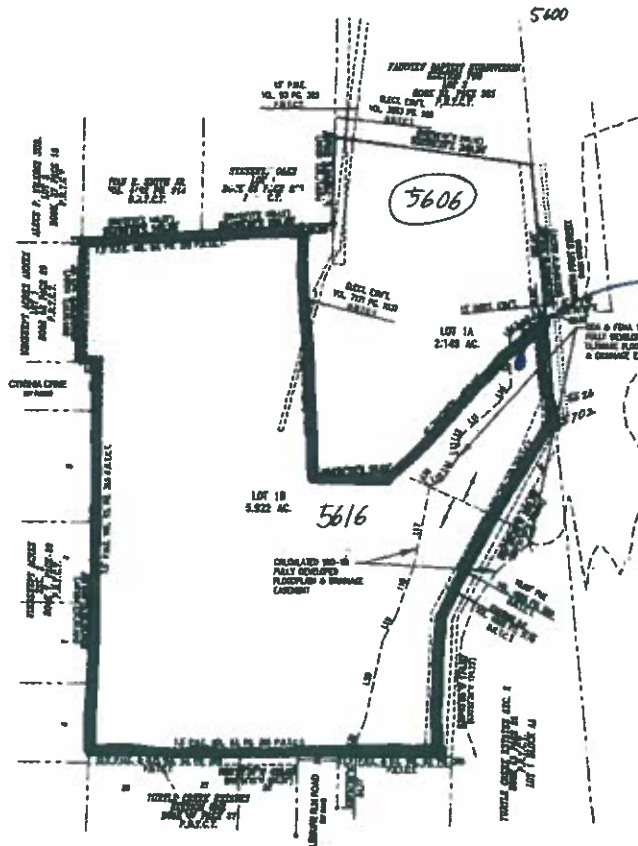
PHONE: 974-7719

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TURTLE CREEK COMMERCIAL SUBDIVISION

A RESUBDIVISION OF LOT 1, FAIRVIEW BAPTIST SUBDIVISION SECTION TWO

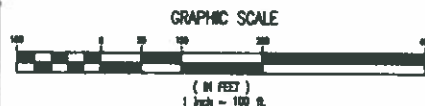


REZONING AREA LOCATION MAP



NOTES:

1. ANY STRUCTURES CROSSING PROPERTY LINES MUST BE DEMOLISHED, OR OBTAIN A UNIFIED DEVELOPMENT AGREEMENT, PRIOR TO ANY BUILDING PERMITS BEING ISSUED ON THIS SITE.
2. NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF AUSTIN WATER AND WASTEWATER SYSTEMS.
3. THE WATER AND WASTEWATER UTILITY SYSTEM SERVING THIS SUBDIVISION MUST BE IN ACCORDANCE WITH THE CITY OF AUSTIN UTILITY DESIGN CRITERIA. THE WATER AND WASTEWATER UTILITY PLAN SHALL BE REVIEWED AND APPROVED BY THE AUSTIN WATER UTILITY. THE WATER AND WASTEWATER UTILITY CONSTRUCTION MUST BE INSPECTED BY THE CITY. THE LANDOWNER MUST PAY THE CITY INSPECTION FEE WITH THE UTILITY CONSTRUCTION.
4. BUILDING SETBACK LINES SHALL BE IN CONFORMANCE WITH THE CITY OF AUSTIN ZONING ORDINANCE REQUIREMENTS AS STATED IN THE LAND DEVELOPMENT CODE.
5. THE OWNER OF THIS SUBDIVISION, AND HIS OR HER SUCCESSORS AND ASSIGNS, ASSUMES RESPONSIBILITY FOR PLANS FOR CONSTRUCTION OF SUBDIVISION IMPROVEMENTS WHICH COMPLY WITH APPLICABLE CODES AND REQUIREMENTS OF THE CITY OF AUSTIN. THE OWNER UNDERSTANDS AND ACKNOWLEDGES THAT PLAT VACATION OR REPEALING MAY BE REQUIRED, AT THE OWNER'S SOLE EXPENSE, IF PLANS TO CONSTRUCT THIS SUBDIVISION DO NOT COMPLY WITH SUCH CODES AND REQUIREMENTS.
6. PRIOR TO CONSTRUCTION ON LOTS IN THIS SUBDIVISION, DRAINAGE PLANS WILL BE SUBMITTED TO THE CITY OF AUSTIN FOR REVIEW. RAINFALL RUN-OFF SHALL BE HELD TO THE AMOUNT EXISTING AT UNDEVELOPED STATUS BY PONDING OR OTHER APPROVED METHODS.
7. PRIOR TO CONSTRUCTION, EXCEPT DETACHED SINGLE FAMILY OR DUPLEX ON ANY LOT IN THIS SUBDIVISION, A SITE DEVELOPMENT PERMIT MUST BE OBTAINED FROM THE CITY OF AUSTIN.
8. AUSTIN ENERGY HAS THE RIGHT TO CUT AND TRIM TREES AND SHRUBBERY AND REMOVE OBSTRUCTIONS TO THE EXTENT NECESSARY TO KEEP THE EASEMENTS CLEAR OF OBSTRUCTIONS. AUSTIN ENERGY WILL PERFORM ALL TREE WORK IN COMPLIANCE WITH CHAPTER 25-4, SUBCHAPTER B OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
9. THE OWNER/DEVELOPER OF THIS SUBDIVISION/LOT MAY PROVIDE AUSTIN ENERGY WITH ANY EASEMENT AND/OR ACCESS REQUIRED FOR THE INSTALLATION AND Ongoing MAINTENANCE OF OVERHEAD AND UNDERGROUND ELECTRIC FACILITIES WITHIN OR ALONG THE PERIMETER OF THIS SUBDIVISION/LOT. THESE EASEMENTS/ACCESS ARE REQUIRED TO PROVIDE ELECTRIC SERVICE TO THE BUILDINGS AND WILL NOT BE LOCATED AS TO CAUSE THE SITE TO BE OUT OF COMPLIANCE WITH CHAPTER 25-4 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
10. THE OWNER SHALL BE RESPONSIBLE FOR INSTALLATION OF TEMPORARY EROSION CONTROL, REVEGETATION AND TREE PROTECTION. THE OWNER SHALL INCLUDE AUSTIN ENERGY'S WORK WITHIN THE LIMITS OF CONSTRUCTION FOR THIS PROJECT.
11. WATERSHED STATUS: THIS SUBDIVISION IS LOCATED WITHIN THE WILLIAMSON CREEK WATERSHED WHICH IS CLASSIFIED AS SUBURBAN AND SHALL BE MAINTAINED IN CONFORMANCE WITH THE CITY OF AUSTIN LAND DEVELOPMENT CODE.
12. THIS SUBDIVISION IS NOT LOCATED OVER THE EDWARDS AQUIFER RECHARGE ZONE.
13. BY APPROVING THIS PLAT, THE CITY OF AUSTIN ASSUMES NO OBLIGATION TO CONSTRUCT ANY INFRASTRUCTURE IN CONNECTION WITH THIS SUBDIVISION. ANY SUBDIVISION INFRASTRUCTURE REQUIRED FOR THE DEVELOPMENT OF THE LOTS IN THIS SUBDIVISION IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR THE OWNERS OF THE LOTS. FAILURE TO CONSTRUCT ANY REQUIRED INFRASTRUCTURE TO CITY STANDARDS MAY BE JUST CAUSE FOR THE CITY TO DENY APPLICATIONS FOR CERTAIN DEVELOPMENT PERMITS INCLUDING BUILDING PERMITS, SITE PLAN APPROVALS, AND/OR CERTIFICATES OF OCCUPANCY.
14. EROSION/SEDIMENTATION CONTROLS ARE REQUIRED FOR ALL DEVELOPMENT, INCLUDING SINGLE FAMILY AND DUPLEX CONSTRUCTION PURSUANT TO SECTION 25-9-101 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE AND THE ENVIRONMENTAL CRITERIA MANUAL.
15. FOR A MINIMUM TRAVEL DISTANCE OF 25 FT. FROM THE ROADWAY EDGE DRIVEWAY GRADES MAY EXCEED 14% ONLY WITH SPECIFIC APPROVAL OF SURFACE AND GEOMETRIC DESIGN PROPOSALS BY THE CITY OF AUSTIN.
16. PUBLIC SIDEWALKS, BUILT TO CITY OF AUSTIN STANDARDS, ARE REQUIRED ALONG THE FOLLOWING STREETS AND AS SHOWN BY A DOTTED LINE ON THE FACE OF THE PLAT:
 - a. 1st STREET
 THESE SIDEWALKS SHALL BE IN PLACE PRIOR TO THE LOT BEING OCCUPIED. FAILURE TO CONSTRUCT THE REQUIRED SIDEWALKS MAY RESULT IN THE WITHDRAWING OF CERTIFICATES OF OCCUPANCY, BUILDING PERMITS, OR UTILITY CONNECTIONS BY THE GOVERNING BODY OR UTILITY COMPANY.
17. DEVELOPMENT ON ANY LOT IN THIS SUBDIVISION SHALL BE PURSUANT TO PROVISIONS OF LOC 25-8-211.
18. BICYCLE AND PEDESTRIAN ACCESS IN CONFORMANCE WITH SUBCHAPTER C OF SECTION 25-2 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE WILL BE PROVIDED TO THE ADJACENT LOT 1A PRIOR TO SITE PLAN APPROVAL.



LEGEND

- CONCRETE MONUMENT FOUND
- IRON ROD FOUND
- IRON PIN SET
- BOUNDARY LINES
- EASEMENT LINES
- DL SIDEWALK
- P.R.T.C.T. PLAY RECORDS OF TRAVIS COUNTY, TEXAS
- D.R.T.C.T. DEED RECORDS OF TRAVIS COUNTY, TEXAS
- RECORD INFORMATION
- P.U.E. PUBLIC UTILITY EASEMENT

LOT SUMMARY

LOTS	ACRES
1A	2.148 AC
1B	5.822 AC
TOTAL	7.970 AC

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N89°51'35"W	18.88'
(L1)	N89°49'10"W	(18.87')
L2	N29°21'11"E	5.01'
(L2)	N29°22'58"E	(5.02')
L3	S81°35'57"E	30.00'
L4	N23°24'03"E	20.00'
L5	N22°34'22"W	18.91'
L6	S81°25'50"W	13.42'
L7	N88°48'27"W	14.08'
L8	S85°47'53"W	8.25'
L9	S27°44'51"W	62.48'
L10	S85°17'30"W	28.47'
L11	S78°23'03"W	60.48'
L12	S54°41'01"W	8.42'
L13	S28°07'58"W	20.31'
L14	S82°18'37"W	34.31'
L15	N88°14'38"W	15.42'
L16	S73°25'10"W	2.27'
L17	S48°45'12"W	101.18'
L18	S49°15'03"W	81.42'
L19	S34°32'00"W	37.28'
L20	S40°21'38"W	100.86'
L21	S50°30'03"W	47.18'

PROPERTY OWNERS: FAIRVIEW BAPTIST CHURCH
5800 S. 1st STREET
AUSTIN, TEXAS 78745

ACRES: 8.022 AC
NUMBER OF BLOCKS: 1
NUMBER OF LOTS: 2
SUBMITTAL DATE:

SURVEYOR: PAUL UTTERBACK, R.P.L.S. 5730
ATS ENGINEERS, INSPECTORS & SURVEYORS
4811 BEE CAVES RD., #200
AUSTIN, TEXAS 78746
512-328-8885
512-328-8886

ENGINEER: KEVIN K. PENA
ATS ENGINEERS, INSPECTORS & SURVEYORS
4811 BEE CAVES RD., #200
AUSTIN, TEXAS 78746
512-328-8885
512-328-8886

UTILITY PROVIDERS: WATER: AUSTIN WATER
WASTEWATER: AUSTIN WATER
ELECTRIC: AUSTIN ENERGY

2009 EXHIBIT B
RECORDED PLAT

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SUBDIVISION REVIEW SHEET

CASE NO.: C8-2008-0076.0A

Z.A.P. DATE: October 21, 2008

SUBDIVISION NAME: Turtle Creek Commercial Subdivision; A resubdivision of Lot 1, Section 2, Fairview Baptist Subdivision

AREA: 8.0667 acres

LOTS: 2

OWNER/APPLICANT: Fairview Baptist Church
(Jose R. Benavides)

AGENT: Mark Dickey

ADDRESS OF SUBDIVISION: 5606 S. 1st Street

GRIDS: G17

COUNTY: Travis

WATERSHED: Williamson Creek

JURISDICTION: Full Purpose

EXISTING ZONING: GR-CO

MUD: N/A

PROPOSED LAND USE: Commercial – Office / Public

ADMINISTRATIVE WAIVERS: None

VARIANCES: The applicant requested a variance from Section 25-6-381 (a) of the Land Development Code which requires that lots in a subdivision accessing a major roadway have at least 200 feet of frontage. This variance was granted by the Commission on July 1, 2008 as a separate agenda item.

SIDEWALKS: Sidewalks will be provided on both sides of all internal streets and the subdivision side of boundary streets.

DEPARTMENT COMMENTS: The request is for approval of the Turtle Creek Commercial Subdivision; A resubdivision of Lot 1, Section 2 of the Fairview Baptist Subdivision. The proposed plat is composed of 2 lots on 8.0667 acres. Lot 1 is currently developed with a religious assembly use. This subdivision application proposes to resubdivide the existing lot creating 1 additional lot for proposed office use. All utilities will be provided by the City of Austin. The applicant will be responsible for all costs associated with any required improvements.

STAFF RECOMMENDATION: The staff recommends approval of this resubdivision based upon it meeting all City and State requirements.

ZONING AND PLATTING COMMISSION ACTION:

2009
RESUBDIVISION
EXHIBIT B - SUPPORT
MATERIAL

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SUBDIVISION REVIEW SHEET

CASE NO.: C8-2008-0076.0A

Z.A.P. DATE: July 1, 2008

SUBDIVISION NAME: Turtle Creek Commercial Subdivision; A resubdivision of Fairview Baptist Subdivision

AREA: 8.0667 acres

LOTS: 2

OWNER/APPLICANT: Fairview Baptist Church
(Jose R. Benavides)

AGENT: Mark Dickey

ADDRESS OF SUBDIVISION: 5606 S. 1st Street

GRIDS: G17

COUNTY: Travis

WATERSHED: Williamson Creek

JURISDICTION: Full Purpose

EXISTING ZONING: GR-CO

MUD: N/A

PROPOSED LAND USE: Commercial -- Office / Public

ADMINISTRATIVE WAIVERS: None

VARIANCES: The applicant is requesting a variance from Section 25-6-381 (a) of the Land Development Code which requires that lots in a subdivision accessing a major roadway have at least 200 feet of frontage. **RECOMMENDED.** (See attached memorandum from Transportation Review).

SIDEWALKS: Sidewalks will be provided on both sides of all internal streets and the subdivision side of boundary streets.

DEPARTMENT COMMENTS: The Turtle Creek Commercial Subdivision; A resubdivision of Fairview Baptist Subdivision is currently under review. The proposed plat is composed of 2 lots on 8.0667 acres. The request is for approval of the above referenced variance only. The resubdivision plat will be brought to the Commission and considered at a later date.

STAFF RECOMMENDATION: The staff recommends approval of the above referenced variance request.

ZONING AND PLATTING COMMISSION ACTION:

CITY STAFF: Don Perryman
e-mail: don.perryman@ci.austin.tx.us

PHONE: 974-2786



MEMORANDUM

TO: Don Perryman, Case Manager
Members of the Planning Commission

FROM: Shandrian Jarvis, Transportation Review

DATE: June 23, 2008

SUBJECT: Variance Request for Turtle Creek Commercial Subdivision
Case Number – C8-2008-0076.0A

Recommendation: To approve the variance

The applicant for the above referenced subdivision is requesting a variance to Title 25 of the Land Development Code (LDC) Section 25-6-381(A), which prohibits direct access from a lot to a major roadway on a subdivision plat if the lot that has less than 200 feet of frontage on the roadway and no alternative access is available. The variance is for Lot 1B to have less than the required street frontage along South First, a public street.

The site consists of one 8.07-acre tract and is zoned GR-CO, General Retail, consistent with properties located in proximity to Stassney Lane. The property is a re-subdivision of the Fairview Baptist Subdivision, which was approved in 1987 (case no. C8-87-026).

Staff recommends approval of the variance with conditions for the following reasons:

- No alternative access is available. Adjacent 100-year floodplain provides a constraint to the property along the boundary at South First Street. In addition, the adjacent property owners do not support a joint access agreement and the site is prohibited from taking access to the two abutting streets, Leisure Run Lane and Cynthia Drive, as a condition of the original subdivision approval.
- The 150-foot minimum driveway spacing requirement along South First street would be met with the proposed driveway location, and the proposed driveway would align with the opposing Bramble Drive;
- The applicant has agreed to provide bicycle and pedestrian access to the adjacent church property in conformance with Subchapter E of Section 25-2 of the City's Land Development Code.

If you have any further questions or required additional information, please contact me at 974-2628.

Shandrian Jarvis
Senior Planner
Land Use Review, 4th Floor
City of Austin, Watershed Protection & Development Review Department

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June 11, 2008

Victoria Li,
Director Watershed Protection
and Development Review Department
505 Barton Springs Road
Austin, Texas 78701

**Re: Turtle Creek Commercial Subdivision, A Resubdivision of Fairview
Baptist Subdivision SE
Case Number: C8-2008-0076.0A**

Dear Victoria Li,

We are requesting a variance from LDC, 25-6-381(A). No direct access from a lot to a major roadway is permitted on a subdivision plat if the lot has less than 200 feet of frontage on the roadway. The existing church parking lot has 61 spaces provided and access to South 1st that adequately serve the church activity. A church representative provided the following traffic information and expressed no concern with the existing layout.

Tuesday evening – 10 trips
Wednesday evening - service – 30 trips
Thursday evening - bible study – 10 trips
Saturday morning - prayer meetings – 10 trips
Sunday morning - services – 60 trips

The proposed development shows an access drive lined up with Bramble Drive. The driveway exceeds the 150-foot minimum offset required for access to a minor arterial. The site is restricted from taking access to Leisure Run or Cynthia Drive.

The church and developer both agree that in order to subdivide the lot separate access to South 1st would be more beneficial to each party. If you need additional information or have any questions about the variance request please contact me.

Sincerely,


Marc Dickey

ing
ers
ctors
1. 800 Cave Road
Suite 200
Austin, Texas 78746
512.328.8995
512.328.8996 Fax
ATS@ATS-Engineers.com

Commercial and
Residential Engineering

- Structural
- Civil
- Mechanical
- Electrical
- Plumbing

Rehabilitation Designs

Property Condition
Inspections

Texas Accessibility
Standards (ADA)
Compliance Reviews
& Inspections

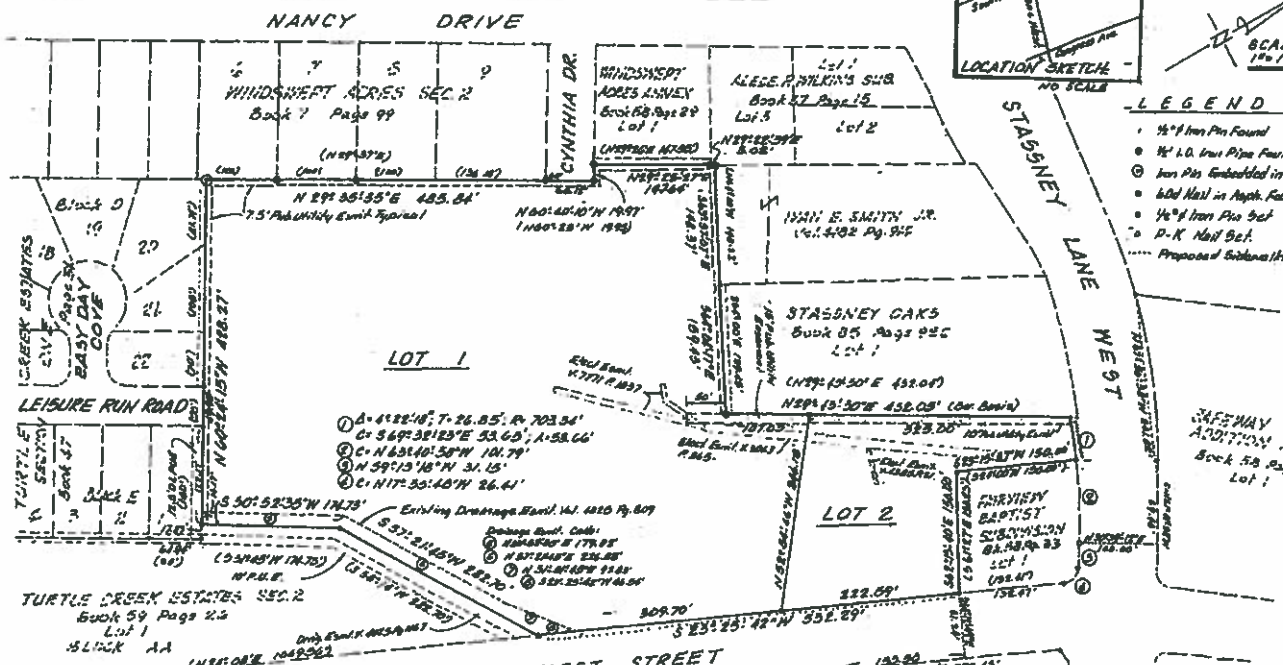
Certified Code
Compliance Inspectors
& Plan Reviewers

Construction Consulting

FAIRVIEW BAPTIST SUBDIVISION - SECTION TWO

Vol. 93 Page 10
PLAT RECORDS, TRAVIS COUNTY, TEXAS

C3
SCALE: 1"=100'



- LEGEND**
- 1/2" Iron Pin Found
 - 1/4" I.D. Iron Pipe Found
 - Iron Pin Embedded in Tree Trunk
 - 60d Nail in Asphalt Found
 - 1/2" Iron Pin Set
 - D-K Nail Set
 - Proposed Subdivisions

THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:

KNOW ALL MEN BY THESE PRESENTS, That Fairview Baptist Church of Austin, a non-profit corporation acting herein by and through, Kenneth E. Davison, Authorized Agent, owner of 8.0667 acres of land out of and a part of the William Cannon League, said 4.0667 acres being out of and a part of that certain 10 acres conveyed unto said church by deed recorded in Volume 2570, Page 1008 of the Deed Records of Travis County, Texas, and Austin Druggists Builders, Ltd., a Texas Limited Partnership, Talisman Group, Inc., general partner, acting by and through, James T. Ross, President, owner of 1.2779 acres of land out of and a part of the William Cannon League, said 1.2779 acres conveyed unto said Austin Druggists Builders Ltd. by deed recorded in Volume 12167, Page 561, of the Deed Records of Travis County Texas, do hereby subdivide 9.3436 acres of land in accordance with the plat shown hereon to be known as FAIRVIEW BAPTIST SUBDIVISION SECTION TWO, and do hereby dedicate to the public the use of the streets and easements shown hereon, subject to any easements and/or restrictions heretofore granted and not released.

WITNESS THE HAND OF Kenneth E. Davison for FAIRVIEW BAPTIST CHURCH OF AUSTIN; this the 8th day of June, 1994, A.D.

WITNESS THE HAND OF James T. Ross, President of Talisman Group, Inc., general partner, AUSTIN DRUGGISTS BUILDERS LTD; this the 7th day of September, 1994, A.D.

Kenneth E. Davison
Top Clerk Center, Suite 400
1500 Capital of Texas Highway South
Austin, Texas 78744

James T. Ross
P.O. Box 202275
Austin, Texas 78726

I, the undersigned authority on this day personally appeared Kenneth E. Davison, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.

NOTARY PUBLIC
Printed Name
Commission Expires



THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:
I, Dana DeBeauvoir, Clerk of Travis County, Texas, do hereby certify that the foregoing instrument of writing and its Certificate of Authentication was filed for record in my office on the 5th day of October, A.D., 1994, at 10:00 o'clock A.M., and only recorded on the 5th day of October, A.D., 1994, at 10:00 o'clock A.M. In the Deed Records of said County and State in Book 93, Page 10.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK OF SAID COUNTY THIS 5th day of October, A.D., 1994.

DANA DEBEAUVOIR, COUNTY CLERK OF TRAVIS COUNTY, TEXAS

FILED FOR RECORD at 10:00 o'clock P.M., this the 5th day of October, 1994, A.D.

DANA DEBEAUVOIR, CLERK OF TRAVIS COUNTY, TEXAS

THE STATE OF TEXAS,
THE COUNTY OF TRAVIS:
I, Melvin G. Lindsey, an authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that this plat complies with Title 13 of the Austin City Code of 1981, as amended, and is true and correct and was prepared from an actual survey of the property and the same is in accordance with the plat shown hereon.

Melvin G. Lindsey
Registered Professional Land Surveyor No. 1307
P.O. Box 1307
1301 Capital of Texas Highway South
Suite 2-134
Austin, Texas 78744

6-8-94

I, the undersigned authority on this day personally appeared James T. Ross, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.



APPROVED AND AUTHORIZED for record by the Director, Department of Planning and Development, City of Austin, County of Travis, this the 7th day of October, 1994, A.D.

Dorothy H. Wooten, Acting Director
Department of Planning and Development

NOTES:

- 1) No building will be occupied until the building is connected to the city of Austin water and wastewater system.
- 2) All water and wastewater system improvements must be in accordance to the City of Austin Water and Wastewater System Design Criteria and Specifications. All water and wastewater plans must be presented to the City of Austin Water and Wastewater Utility for review and approval. All water and wastewater construction must be inspected by the City of Austin.
- 3) All streets and alleys shall be constructed in accordance with the Transportation Criteria Manual.
- 4) Building setbacks shall be in accordance with City of Austin zoning ordinance requirements.
- 5) Development of all lots in this subdivision is hereby restricted to use other than residential.
- 6) No buildings, fences, landscaping, or other structures are permitted in drainage easements except as approved by City of Austin/Travis County.
- 7) Property owner shall provide for access to drainage easements as may be necessary and shall not prohibit access by governmental authorities.
- 8) All drainage easements shall be maintained by the property owner or assigns.
- 9) No portion of this tract is within the boundaries of the 100 year floodplain of any waterway that is within the limits of study of the Federal Flood Insurance Administration FEMA Panel No. 48490C 02102, dated June 16, 1993, for Travis County, Texas.
- 10) Prior to construction on lots in this subdivision, drainage plans will be submitted to the City of Austin for review. Rainfall runoff shall be held to the amount existing at undeveloped status by ponding or other approved methods, and a site development permit must be obtained from the City of Austin.
- 11) Public sidewalks, built to City of Austin standards, are required along the following streets and as shown by a dotted line as the face of the plat: South 1st and Stasney Lane. These sidewalks shall be in place prior to the lot being occupied. Failure to construct the required sidewalks may result in the withholding of Certificates of occupancy, building permits, or utility connections by the governing body of utility company.
- 12) Off-street loading and unloading facilities shall be provided on all commercial and industrial lots.
- 13) Any construction on these lots shall conform to all applicable city ordinances.
- 14) Access is prohibited to Cynthia Drive and Leisure Run Road.
- 15) This project is subject to the requirements of Chapter 13-2, Article V and Chapter 13-7, Article I of the Land Development Code.
- 16) There will be no cut or fill in excess of four feet for any lot grading.
- 17) This subdivision plat was approved and recorded before the construction and acceptance of required subdivision improvements. Pursuant to the terms of a Subdivision Improvement Agreement between the Fairview Baptist Church of Austin, subdivision and the City of Austin, dated 10/5/94, the subdivision is responsible for the construction of all improvements needed to serve the lots within the subdivision. This responsibility may be assigned in accordance with the terms of that agreement.

For the Subdivision Improvements Agreement pertaining to this subdivision, see separate instrument recorded in Vol. 93, Page 10, in the Deed Records of Travis County, Texas.

CREEKSIDE

5608 S FIRST AUSTIN TX
PRELIMINARY SITE STUDY

Lot 257,971 sf
5.92 Acres

40 Homes Proposed
3/2.5
2 car garage
+ 1600sf

SOUTH FIRST STREET

EXHIBIT C
Applicant's conceptual plan

C3
16

Zoning Case No. C14-03-0099

RESTRICTIVE COVENANT

OWNERS: Fairview Baptist Church of Austin
Thomas and Helen O'Meara
Ivan E. and Frances G. Smith, Jr. Revocable Living Trust

ADDRESS: See Below

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 10.97 acre tract of land, more or less, out of the William Cannon League, Abstract 6, Survey No. 19, consisting of three parcels of land in Travis County, the tract of land being more particularly described in Exhibit "A" incorporated into this covenant.

11
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WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by John F. Hickman and Associates, dated July, 2003, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated September 2, 2003. The TIA shall be kept on file at the Watershed Protection and Development Review Department
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

10-20-07

*2-6

ATTACHMENT B⁺
PUBLIC RC W/TIA REFERENCE

C3
17

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 29th day of Oct, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit association

By: _____
Charles Long, Pastor

Address: 5606 South 1st St., Austin, TX 78748

Thomas J. O'Meara, Jr.

Helen O'Meara

Address: 103 East Milton St., Austin, TX 78704

The Ivan E. and Frances G. Smith, Jr.
Revocable Living Trust

By: _____
Ivan E. Smith, Jr.

By: _____
Frances G. Smith

Address: 8 Doolittle Dr., Wimberley, TX 78676



C3
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Exhibit A

Date: September 2, 2003
To: Annick Beaudet, Case Manager
CC: Members of the Zoning and Platting Commission
John Hickman, John F. Hickman and Associates
Carol Kaml, Fiscal Officer
Reference: Stassney South First Retail Traffic Impact Analysis, C14-03-0099

The Transportation Review Section has reviewed the Traffic Impact Analysis for Stassney South First Retail, a 10.97-acre development located in south Austin at the southwest corner of the Stassney Lane and South First Street intersection. The TIA for this site was prepared by John Hickman of John F. Hickman and Associates in July 2003.

Trip Generation

The proposed mixed-use development consists of the following land uses:

- Supermarket 50,000 square feet
- Shopping Center 33,000 square feet
- Fast Food with Drive Through 10,000 square feet

The property is currently zoned Limited Office (LO), Neighborhood Commercial (LR), and Family Residence (SF-3). The proposed rezoning request is for GR, Community Commercial. Completion of the project is scheduled for the year 2005.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 13,880 unadjusted average daily trips (ADT). Of these, 743 trips will occur in the morning peak-hour and 1,212 will occur in the evening peak-hour.

Table 1 represents the adjusted average trip generation by land use for the proposed development.

TABLE 1. TRIP GENERATION (Adjusted)						
Land Use	Size	Daily	AM Peak Hour		PM Peak Hour	
			Enter	Exit	Enter	Exit
Supermarket	50,000 sf	3,334	60	39	173	166
Shopping Center	33,000 sf	2,172	33	21	93	101
Fast Food w/ Drive Through	10,000 sf	2,282	120	114	80	74
Total		7,788	213	174	346	341

Assumptions

1. Traffic growth rate for all streets is 3.5%.
2. Background traffic volumes for 2003 included estimated traffic volumes for the following projects:

- SPC-00-2249C South Austin Mini Storage
- SP-00-2432C Little Texas (Alexan Stassney Heights)
- SP-01-0124C Talavera Apartments
- SP-01-0515C Texas Middle School Association
- SP-02-0416C Central Park
- SP-03-0049C Capitol Soccer Club
- SP-03-0072C Maranatha Baptist Temple

C3
19

3. Reductions were taken for internal capture as follows:

Table 2. Internal Capture Reductions	
Land Use	Reduction %
Supermarket	5
Fast Food w/ Drive Through	5

4. Reductions were taken for pass-by trips as follows:

Table 3. Pass-by Reductions by %		
Land Use	AM	PM
Supermarket	34%	36%
Shopping Center	32%	34%
Fast Food w/ Drive Through	49%	50%

5. A 3% reduction was taken for transit use. Capital Metro provides service to this area via Route 10 (South First), Route 311 (Stassney) and Route 110 (South Central Flyer).

Existing and Planned Roadways

Stassney Lane – This roadway is classified as a four-lane divided major arterial and creates the northern boundary of the site. The traffic volumes for year 2002 on Stassney west of IH 35 were 31,826 vehicles per day. This roadway is in the Bicycle Plan as a priority one route.

South 1st Street – South 1st Street bounds the site on the east and is classified as a four-lane undivided minor arterial in the Roadway Plan. The traffic volume on South 1st Street north of Stassney Lane was approximately 22,043 vehicles per day in 2003. This roadway is classified as a priority 2 route in the Bicycle Plan.

Congress Avenue – This roadway is located east of the site and is classified as a four-lane undivided major arterial at its intersection with Stassney Lane. In 2025, the Roadway Plan calls for Congress to be a four-lane divided major arterial between US 290 and Stassney and a six-lane divided major arterial between Stassney and William Cannon. Year 2000 traffic volumes for Congress Avenue north and south of Stassney Lane were 21,000 and 16,300 vehicles per day respectively.

Emerald Forest Drive – This roadway is located west of the site and is classified as a collector street. The 1997 traffic volume for Emerald Forest was 4,530 vehicles per day. This street is classified in the Bicycle Plan as a priority one route.

Flournoy Drive – Flournoy Drive is located south of the site is classified as a two-lane collector. Year 1997 traffic volumes for this roadway were 3,500 vehicles per day. This street is classified in the Bicycle Plan as a priority one route.

C3/20

Traffic Analysis

The impact of site development traffic on the existing area roadways was analyzed. Two time periods and travel condition were evaluated:

- 2003 – Existing Conditions
- 2005 – Forecasted Conditions with Site Generated Traffic

Intersection Level of Service (LOS)

The TIA analyzed seven intersections, of which four are signalized. All of the intersections operate at an acceptable LOS with the improvements recommended with the following exceptions:

- 1) The PM peak at the intersection of Stassney and South First is projected to have a failing LOS in 2005 before the addition of site traffic. With the addition of site traffic, the LOS at this intersection will be maintained at the level forecasted for 2005 background traffic only.
- 2) The PM peak at the intersection of Stassney Lane and Driveway A is projected to have a failing LOS, but the failing movements are contained on site and therefore, no additional mitigation is required.
- 3) The intersection of South First Street and Driveway C is projected to have a failing LOS, but the failing movements are contained on site and therefore, no additional mitigation is required.

Table 4. Level of Service				
Intersection	2003		2004	
	AM	PM	AM	PM
Stassney Lane and South First Street*	C	D	D	E
Stassney Lane and Congress Avenue*	D	F	C	D
Stassney Lane and Emerald Forest*	C	C	C	D
South First Street and Flournoy Drive*	B	B	B	B
Stassney Lane and Driveway A			B	E
Stassney Lane and Driveway B			B	B
South First Street and Driveway C			E	F

*SIGNALIZED

Recommendations

1. Prior to 3rd reading at City Council, fiscal is required to be posted for the following improvements:

Table 5. Recommended Improvements			
Intersection	Improvement	Pro Rata %	Pro Rata Cost
Stassney and S. First	Add southbound right turn lane	8.68%	\$5,032
Stassney and Congress	Restripe to provide separate northbound and southbound left turn lanes	4.64%	\$99
Stassney and Driveway A	Construct westbound left turn lane	100%	\$31,228

C3/21

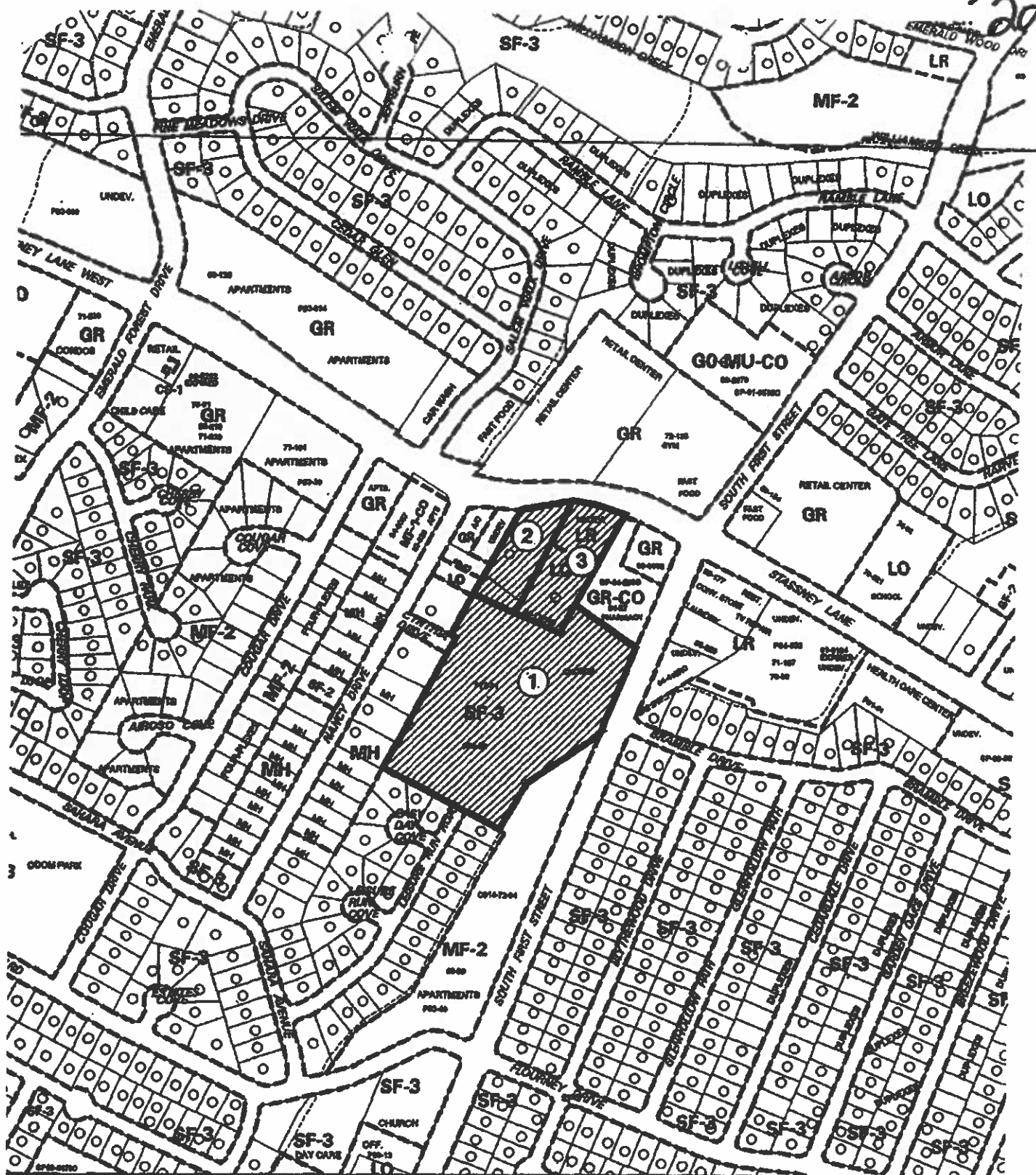
2. Vehicular access to Leisure Run Road and Cynthia Drive shall be prohibited.
3. Driveway access to Stassney Lane will be limited to one site driveway at the median opening on Stassney and joint access with the Walgreen's property to the east.
4. Approval from the Texas Department of Transportation must be received prior to first reading at City Council.
5. The Transportation Planning and Sustainability Department has approved the TIA.
6. For information: Three copies of the final version of the TIA incorporating all corrections and additions must be submitted prior to 3rd reading at City Council.
7. Development of this property should be limited to uses and Intensities, which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2044.



Amy Link
Transportation Planner – Watershed Protection and Development Review Department

C3
22



 1" = 400'	SUBJECT TRACT 	ZONING CASE #: C14-03-0099 ADDRESS: W STASSNEY LN @ S 1ST SUBJECT AREA (acres): 10.922		DATE: 03-07 INTLS: SM	CITY GRID REFERENCE NUMBER G17
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: W. WALSH				

C3/23

Zoning Case No. C14-03-0099

RESTRICTIVE COVENANT

OWNERS: Fairview Baptist Church of Austin; Ivan E. and Frances G. Smith, Jr. Revocable Living Trust; Thomas J. O'meara, Jr. and Helen Martha Omeara.

ADDRESS: 5606 South 1st Street; 705 Stassney Lane; 709 Stassney Lane

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Approximately 10.7 acres of land out of the William Cannon League, Abstract 6, Survey No. 19, City of Austin, Travis County, Texas, being a portion of the plat of Fairview Baptist Subdivision Section Two as filed for record in Plat Book 93, Page 365, and all of the plat of Stassney Oaks as filed for record in Plat Book 85, Page 92C, of the plat records of Travis County, Texas; and being all of the 1.22 acre tract of land conveyed to the Ivan E. & Frances G. Smith, Jr. Revocable Living Trust, by deed recorded in Volume 13150 at Page 235, Official Records of Travis County, Texas; being more particularly described in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owners of the Property desire that the Property be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the Consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their heirs, successors, and assigns:

1. **Masonry Wall.** Owners agree that any site plan application filed with the City of Austin shall include a masonry wall six (6) feet in height from existing grade along the west and south property lines. The wall may be constructed of split-faced concrete masonry unit, or any other similar materials, excluding gates.
2. **Pedestrian Walkway.** Subject to the approval of the City of Austin, pedestrian access to the Property via a pedestrian walkway from Leisure Run will be included in any site plan covering the Property. Such pedestrian access may be changed or terminated without requiring an amendment to this Restrictive Covenant, if, in the Owners' sole opinion, pedestrian access cannot be safely provided or it poses a security risk to the Property.
3. **Amplified Music Restriction.** There shall be no amplified outdoor music on the Property; provided, however, that amplified music entertainment during occasional outdoor special events on the Property shall not constitute a violation of this covenant.
4. **Outdoor Vendor Restriction.** Independent Vendors shall be prohibited from selling items outdoors within ten feet of either side of the main entrance of any grocery store on the Property. Further, independent vendors shall be prohibited from selling clothing outdoors.

10-30-03
+ 2-6

ATTACHMENT 2
PRIVATE RC

C3
24

5. **Enforcement.** If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.
6. **Partial Invalidity.** If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
7. **Modification/Termination.** This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.
8. **Counterparts/Facsimile Signatures.** This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 24th day of October, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: _____
Charles Long, Registered Agent

Thomas J. O'Meara, Jr.
Thomas J. O'Meara, Jr.

Helen Martha O'Meara
Helen Martha O'Meara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: _____
Ivan E. Smith, Jr.

By: _____
Frances G. Smith

C3
25

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Charles Long, Registered Agent for Fairview Baptist Church of Austin, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Thomas J. O'Meara, Jr.



Shanell Salinas

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29th day of October, 2003, by Helen Martha O'Meara.



Shanell Salinas

Notary Public, State of Texas

C3/26

5. Enforcement. If any person or entity shall violate or attempt to violate this agreement or covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.

6. Partial Invalidity. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and the remaining portion of this agreement shall remain in full effect.

7. Modification/Termination. This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.

8. Counterparts/Facsimile Signatures. This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the _____ day of _____, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: Charles Long
Charles Long, Registered Agent

Thomas J. O'meara, Jr.

Helen Martha O'meara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: _____
Ivan E. Smith, Jr.

By: _____
Frances G. Smith

C3/27

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 11 day of November, 2003, by Charles Long, Registered Agent for Fairview Baptist Church of Austin, a Texas non-profit corporation, on behalf of said corporation.



Laura E. Turner
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2003, by Thomas J. O'meara, Jr.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2003, by Helen Martha O'meara.

Notary Public, State of Texas

C3
28

5. **Enforcement.** If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for (a) property owners adjacent to the Property or (b) a neighborhood association registered with the City of Austin whose boundaries encompass the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions.

6. **Partial Invalidity.** If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

7. **Modification/Termination.** This agreement may be modified, amended, or terminated only by the Owner(s) of the Property, after written notice is delivered to (a) the City of Austin, (b) the property owners adjacent to the Property, and (c) the neighborhood association(s) registered with the City of Austin whose boundaries encompass the Property. Such modification, amendment or termination shall not be effective until the expiration of thirty (30) days from delivery of the required notice.

8. **Counterparts/Facsimile Signatures.** This restrictive covenant may be executed in any number of multiple counterparts which, when taken together, constitute one agreement enforceable against all parties. The delivery of a facsimile of an executed copy of this restrictive covenant will be deemed delivery of an original.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 29th day of Oct, 2003.

OWNERS:

Fairview Baptist Church of Austin,
a Texas non-profit corporation

By: _____
Charles Long, Registered Agent

Thomas J. O'meara, Jr.

Helen Martha Omeara

Ivan E. and Frances G. Smith, Jr. Revocable
Living Trust

By: Ivan E. Smith, Jr.
Ivan E. Smith, Jr.

By: Frances G. Smith
Frances G. Smith

C3/29

THE STATE OF TEXAS §
COUNTY OF ~~TRAVIS~~ *Hays* §

This instrument was acknowledged before me on this the 29th day of Oct. 2003, by Ivan E. Smith, Jr., Trustee for the Ivan E. and Frances G. Smith, Jr. Revocable Living Trust.

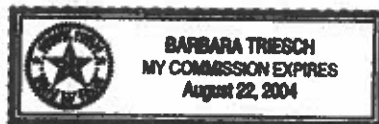
Barbara Triesch
Notary Public, State of Texas



THE STATE OF TEXAS §
COUNTY OF ~~TRAVIS~~ *Hays* §

This instrument was acknowledged before me on this the 29th day of Oct. 2003, by Frances G. Smith, Trustee for the Ivan E. and Frances G. Smith, Jr. Revocable Living Trust.

Barbara Triesch
Notary Public, State of Texas



After Recording, Please Return to:
Casey Ware, Esq.
Armbrust & Brown, L.L.P.
180 Congress Avenue, Suite 1300
Austin, Texas 78701

C3
30**SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant townhouse and condominium – conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay limits development of the property to 45 units and establishes that a building may not contain more than one unit.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The townhouse and condominium residence (SF-6) district is intended as an area for moderate density single family, duplex, two-family, townhouse and condominium use.

2. *Zoning changes should promote compatibility with adjacent and nearby uses.*

Staff recommends the Applicant's request, given: the surrounding area includes single family residences, manufactured homes, and multi-family residential uses, and SF-6-CO zoning would be compatible with the established character while further diversifying the housing options available; and 2) it is located in proximity to supporting office, commercial and civic uses.

EXISTING CONDITIONS**Site Characteristics**

The rezoning area is undeveloped and relatively flat. The recorded plat delineates the City of Austin and FEMA 100-year fully developed floodplain within the eastern portion of the property.

Impervious Cover

The maximum impervious cover allowed by SF-6 zoning district is 55%, a consistent figure between the *zoning and watershed* regulations.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

C3/31

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is a floodplain within the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine the exact location of the boundaries. No development is permitted in the Critical Water Quality Zone, while impervious cover is limited to 30% in the Water Quality Transition Zone.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

Transportation

The traffic impact analysis for this site has been waived because a TIA was conducted with zoning case C14-03-0099. The Applicant should comply with all applicable recommendations listed the Staff memo dated 9/3/2003.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the proposed land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

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32**Site Plan and Compatibility Standards**

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the south property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2011-0066

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing: August 2, 2011, Zoning and Platting Commission
August 25, 2011, City Council

Fairview Baptist Church

Your Name (please print)

3606 S. 1st St Austin TX 78745-3108

Your address(es) affected by this application

Melanie Herbst Secretary 7-22-11
Signature Date

Daytime Telephone: 442-1878

Comments:

Will not attend
meetings

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

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