

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, January 9, 2012

CASE NUMBER: C15-2012-0003

_____ Jeff Jack
_____ Michael Von Ohlen
_____ Nora Salinas
_____ Bryan King
_____ Susan Morrison
_____ Melissa Hawthorne
_____ Heidi Goebel
_____ Cathy French (SRB only)
_____ Dan Graham (SRB only)

APPLICANT: Jim Wittliff

OWNER: Roger Easley

ADDRESS: 2015 MANOR RD

VARIANCE REQUESTED: The applicant has requested a variance from Section 25-2; Subchapter E; Subsection 2.3, Subsection 2.6, and Subsection 3.2 for sidewalks, planting zones, clear zones, utilities, furniture, building placement, parking, corner site, landscape buffer, connectivity, screening and pedestrian frontage provisions to allow existing conditions to remain in order to maintain the existing parking facility in a "CS-MU-V-NP" zoning district.

The applicant has requested a variance from Section 25-2-1007 for landscape islands and trees in parking lots to allow existing conditions to remain in order to maintain the existing parking facility in a "CS-MU-V-NP" zoning district.

The applicant has requested a variance from Section 25-2-1008 for irrigation requirements so that the existing amount of landscaping and related irrigation is the required amount in order to maintain the existing parking facility in a "CS-MU-V-NP" zoning district.

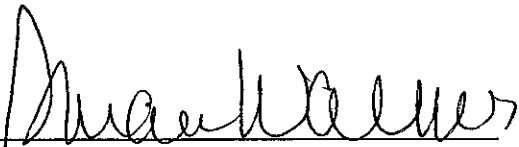
The applicant has requested a variance from Section 25-2-1062 (Height Limitations); Section 25-2-1066 (Screening Requirements) and 25-2-1067 (Design Regulations) for compatibility requirements to not apply to the portion of the property abutting the alley to allow existing conditions to remain in order to maintain the existing parking facility in a "CS-MU-V-NP" zoning district.

BOARD'S DECISION: POSTPONED TO FEBRUARY 13, 2012
FEB 13, 2013 POSTPONED TO MARCH 12, 2012


FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:



Susan Walker
Executive Liaison



Jeff Jack
Chairman

Walker, Susan

From: Lynn Ann Carley [lcarley@abaustin.com]
Sent: Wednesday, February 08, 2012 10:33 AM
To: Walker, Susan
Subject: BOA Agenda - VIVO at 2015 Manor Road

Hi Susan,

I noticed on the last agenda for BOA that the 2015 Manor Road project was listed as "Richard T Suttle, Jr for Peter Cesaro". Could this be corrected for the next agenda? Technically, our firm is not representing Peter Cesaro. We are representing VIVO Restaurant, but Quander Management LLC is the owner of the property. Therefore, we obtained written consent to submit the BOA variance from Quander Management LLC. Could the next agenda be corrected to state "Richard T Suttle, Jr for VIVO Restaurant"?

Thanks, Lynn Ann

Lynn Ann Carley, P.E.
Senior Land Development Consultant
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Phone: (512) 435-2378
Fax: (512) 435-2360
Email: lcarley@abaustin.com

change agenda for
March 12th mtg
to reflect this.
Thanks!
SW

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Walker, Susan

From: Lynn Ann Carley [lcarley@abaustin.com]
Sent: Wednesday, February 08, 2012 10:13 AM
To: Walker, Susan
Cc: Meghan Griffiths
Subject: Postponement Request for 2015 Manor Road (C15-2012-0003)

Hi Susan, In regards to the upcoming hearing on Monday, February 13, 2012, the applicant and neighborhood are jointly requesting a one month postponement for the variances submitted for 2015 Manor Road (VIVO) to allow additional time to meet with the surrounding neighborhood planning team. Meghan Griffiths with the Blackland Neighborhood Association is cc:ed on this email in order to provide concurrence with the joint postponement request.

Please feel free to contact me with any questions. Thanks, Lynn Ann

Lynn Ann Carley, P.E.

Senior Land Development Consultant
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Phone: (512) 435-2378
Fax: (512) 435-2360
Email: lcarley@abaustin.com

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Walker, Susan

From: Meghan Griffiths [meghan_griffiths@hotmail.com]
Sent: Wednesday, February 08, 2012 11:01 AM
To: Lynn Ann Carley; Walker, Susan
Cc: Christopher Swanson
Subject: RE: Postponement Request for 2015 Manor Road (C15-2012-0003)

Susan,

BNA concurs with this request.

I am also a representative of the Upper Boggy Creek Planning team, and I can report that the UBC concurs with the request as the postponement is intended to allow the UBC to address the variance request at its February meeting. I'm adding Chris Swanson, President of UBC, to the email chain.

Regards,

Meghan Griffiths
BNA President
UBC Member

Subject: Postponement Request for 2015 Manor Road (C15-2012-0003)
Date: Wed, 8 Feb 2012 10:12:38 -0600
From: lcarley@abaustin.com
To: susan.walker@ci.austin.tx.us
CC: meghan_griffiths@hotmail.com

Hi Susan, In regards to the upcoming hearing on Monday, February 13, 2012, the applicant and neighborhood are jointly requesting a one month postponement for the variances submitted for 2015 Manor Road (VIVO) to allow additional time to meet with the surrounding neighborhood planning team. Meghan Griffiths with the Blackland Neighborhood Association is cc'ed on this email in order to provide concurrence with the joint postponement request.

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2/8/2012

**CITY OF AUSTIN
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Decision Sheet**

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_____ Nora Salinas
_____ Bryan King
_____ Susan Morrison
_____ Melissa Hawthorne
_____ Heidi Goebel
_____ Cathy French (SRB only)
_____ Dan Graham (SRB only)

APPLICANT: Jim Wittliff

OWNER: Roger Easley

ADDRESS: 2015 MANOR RD

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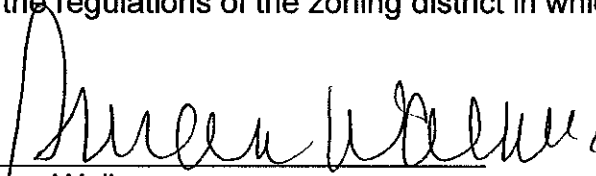
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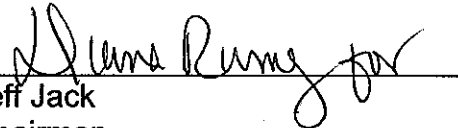
BOARD'S DECISION: POSTPONED TO FEBRUARY 13, 2012

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:



Susan Walker
Executive Liaison



Jeff Jack
Chairman

PUBLIC HEARING INFORMATION

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 a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. 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.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

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

Case Number: C15-2012-0003 – 2015 Manor Road
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, January 9th, 2012

Raymond S. Joseph
 Your Name (please print)

I am in favor
 Object

1816E, 40th ST
 Your address(es) affected by this application

Raymond S. Joseph 1/6/12
 Signature Date

Daytime Telephone: 512-477-9158

Comments:

If you use this form to comment, it may be returned to:
 City of Austin-Planning & Development Review Department/ 1st Floor
 Susan Walker
 P. O. Box 1088
 Austin, TX 78767-1088

Ramirez, Diana

From: Cesaro, Peter J. [PCesaro@gdhm.com]
Sent: Monday, January 09, 2012 11:20 AM
To: Guernsey, Greg
Cc: Ramirez, Diana; Walker, Susan
Subject: Board of Adjustment; F-4 (C15-2012-0003)

Greg,

I wanted to follow-up on the above-referenced matter. I noticed it was posted that Richard Suttle is appearing for me. Richard Suttle is not appearing for me, but is appearing on behalf of his client – Roger Diaz – who is responsible for the violations at this site.

Please confirm that you will clarify at tonight's Board of Adjustment hearing.

-Peter

Peter Cesaro
512.480.5728 (p)
512.536.9928 (f)



GRAVES DOUGHERTY HEARON & MOODY

401 Congress Avenue, Suite 2200
Austin, Texas 78701
Phone: 512.480.5600
www.gdhm.com

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Ramirez, Diana

C15-2012-0003

From: Lynn Ann Carley [lcarley@abaustin.com]
Sent: Friday, January 06, 2012 2:15 PM
To: Walker, Susan
Cc: Ramirez, Diana; Hilling, Clara
Subject: Vivo - Postponement Request

Hi Susan, In regards to the upcoming hearing on Monday, January 9, 2012, the applicant and neighborhood are jointly requesting a one month postponement for the variances submitted by Vivo. See correspondence below. A representative for the applicant (either myself or Richard Suttle) will be in attendance at Monday's hearing regarding the postponement. Please feel free to contact me with any questions. Thanks, Lynn Ann

Lynn Ann Carley, P.E.
Senior Land Development Consultant
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Phone: (512) 435-2378
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-----Original Message-----

From: Meghan Griffiths [mailto:meghan_griffiths@hotmail.com]
Sent: Thursday, January 05, 2012 5:32 PM
To: Lynn Ann Carley
Subject: RE: Vivo - Postponement Request

Hi Lynn Ann,

BNA concurs with the postponement request.

Meghan Griffiths
BNA President

Subject: Vivo - Postponement Request
Date: Thu, 5 Jan 2012 16:39:25 -0600
From: lcarley@abaustin.com
To: meghan_griffiths@hotmail.com

1/9/2012

Hi Meghan,

At our meeting on January 3, 2012, we had discussed jointly postponing Vivo's upcoming hearing at Board of Adjustment (BOA) on January 9, 2012 to allow us an opportunity to meet with a quorum of the Blackland Neighborhood Association (BNA). Since our next meeting with BNA will be February 7, 2012, we would like to request a one month postponement at BOA so that the variances will be heard at the February 13, 2012 BOA meeting.

Could you confirm that the BNA concurs with the postponement request? If so, then I will forward this email chain to Susan Walker with the City of Austin.

Thank you for your assistance, Lynn Ann

Lynn Ann Carley, P.E.

Senior Land Development Consultant

Armbrust & Brown, PLLC

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

Phone: (512) 435-2378

Fax: (512) 435-2360

Email: lcarley@abaustin.com

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CASE # CL8-2012-0003
ROW # 10692982

TP-0211090402

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 2015 Manor Road

LEGAL DESCRIPTION: Lots 7, 8, and the west 63.2 feet of Lot 6, Block 15, Outlot 46, Division D, Johns C. R. Subdivision

I/We Richard T. Suttle, Jr. with Armbrust & Brown, PLLC on behalf of myself/ourselves as authorized agent for Quander Management LLC affirm that on November 17, 2011, I, hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

Maintain the existing parking facility on the Property. The variances required to maintain the existing parking facility "as is" are as follows:

1. Section 25-2, Subchapter E, §2.2 (and related Section 25-2-1006), §2.3, §2.6, and §3.2 for sidewalks, planting zones, clear zones, utilities, furniture, building placement, parking, corner site, landscape buffer, connectivity, screening, and pedestrian frontage provisions to allow existing conditions to remain.
2. Section 25-2-1007 for landscape islands and trees in parking lots to allow existing conditions to remain.
3. Section 25-2-1008 for irrigation requirements so that the existing amount of landscaping and related irrigation is the required amount.
4. Sections 25-2-1062, 25-2-1066, and 25-2-1067 for compatibility requirements not to apply to the portion of the property abutting the alley to allow existing conditions to remain.

in a CS-MU-V-NP district.
(zoning district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The existing building on this site was constructed in 1949 as a residence. Through the years, the building became an office, daycare, and in 1996 became a restaurant for the first time. During the last 15 years, multiple other restaurants along Manor Road have opened, which has made parking difficult in this part of town due to the reuse of existing buildings for restaurants and the lack of available property solely for parking. Compliance with multiple sections of the commercial design standards, landscape island requirements in parking lots, irrigation requirements in an urban watershed, and compatibility standards would significantly decrease the number of parking spaces that are allowed on the Property.

Compliance with the portions of the Commercial Design Standards related to sidewalks, planting zones, clear zones, utilities, furniture, building placement, parking, corner site, landscape buffer, connectivity, screening, and pedestrian frontages would reduce the site area and remove parking spaces for the site.

The purpose of the landscape island variance and irrigation variance are to maintain the existing landscaped area and related irrigation, so that additional landscaping areas and irrigation are not required. If additional landscaping areas and irrigation were needed, it would require the loss of additional parking spaces on the site.

The compatibility variance is to maintain the existing condition, in which the parking lot is only 20 feet away (instead of 25 feet away) from the SF-3 zoned property to the south. An existing alley is located between this Property and the SF-3 zoned property to the south, as shown in Exhibit A.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The VIVO's restaurant is located in an existing building constructed in 1949 as a residence. The design standards for site layouts and the requirements for parking have changed significantly in the past 60 years. In order to sustain the viability of commercial uses in older urban areas, variances are required. Since a reduction to the number of parking spaces is not desirable from the perspective of either the restaurant or surrounding neighborhood associations, the Applicant is requesting variances to other sections of the City's code to meet current parking lot design regulations. It is our desire to provide the required number of parking spaces for the use.

(b) The hardship is not general to the area in which the property is located because:

The VIVO's restaurant is located next to two adjacent empty lots, which can be used conveniently to provide parking. However, meeting all of the current Commercial Design Standards, landscape area requirements, irrigation requirements, and compatability standards would significantly reduce the number of parking spaces that could be located on the Property. Other restaurants in older buildings in this neighborhood must seek parking from blocks away, or do not provide code required parking. Those restaurants located in buildings constructed from the 1980s to the present have a greater chance of including code required parking, since they are newer buildings and parking requirements were more strict.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

it will not affect the look and feel of the existing building constructed in 1949. According to aerials, the lots that are proposed to be used for parking have been empty since the 1970s. Parking has occurred on all or part of these lots for 30 years.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

N/A

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 100 Congress Avenue, Suite 1300

City, State & Zip Austin, TX 78701

Printed Richard T. Suttle, Jr, Armbrust & Brown, PLLC

Phone 512-435-2300

Date November 22, 2011

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed See Attached Authorization Letter Mail Address _____

City, State & Zip _____

Printed Quander Management LLC. Phone _____ Date _____

August 3, 2011

City of Austin
Neighborhood Planning and Zoning Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Re: Cause Nos. 6553453, 6553469, 6553486, 6553517, 6553538, 6553661, 6553664, 6553732, 6553741, and 6553746 (collectively, the "Violations") and the Improved Property Commercial Lease, as amended, (the "Lease") dated 11/4/02 by and between Quander Management, L.L.C. ("Landlord"), and Vivo Restaurant Group, Inc. ("Tenant") for the property locally known as 2015 Manor Road, Austin, Texas 78722, and more particularly described as the West 63.2 feet of Lot 6 and all of Lots 7-8, Block 15, Outlot 46, Division D, Johns CR Subdivision (the "Property")

Dear Ladies and Gentlemen:

The undersigned is the owner of the above-referenced Property. The undersigned Landlord executed the Lease with Tenant. Under the terms of the Lease, Tenant may not permit the leased premises (as defined in the Lease) to be used for any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations. Tenant made these improvements that caused the Violations and is obligated, at its sole cost and expense, to modify or alter the improvements to cure the Violations. The Property would then comply with any applicable law. As has previously been communicated, the undersigned Landlord authorizes Tenant to cure the Violations caused by Tenant. It is acknowledged that Armbrust & Brown, PLLC, the attorneys representing Tenant will act as agent for Tenant in connection with curing the Violations and bringing the Property into compliance with any applicable law.

Subject to the terms of the Lease, Tenant, and its agents, Armbrust & Brown, PLLC and Ron Thrower of Thrower Design, are authorized to process the Site Plan submitted with this letter and any variances to the Board of Adjustment, until this authorization is terminated by the undersigned. This authorization letter is meant to supplement the previous authorization letter that Landlord provided to you in January 2009.

Copies of all correspondence or comments concerning curing the Violations should be provided to the undersigned in care of (i) Peter Cesaro, Graves Dougherty Hearon & Moody, P.C., 401 Congress Ave., Suite 2200, Austin, Texas 78701 and (ii) Quander Management L.L.C., c/o Arthuree Quander, 8320 Summerwood Drive, Austin, TX 78759-8225.

Sincerely,

Quander Management, L.L.C.

By Arthuree L. Quander
Arthuree Quander, Manager



BOARD OF ADJUSTMENTS

N

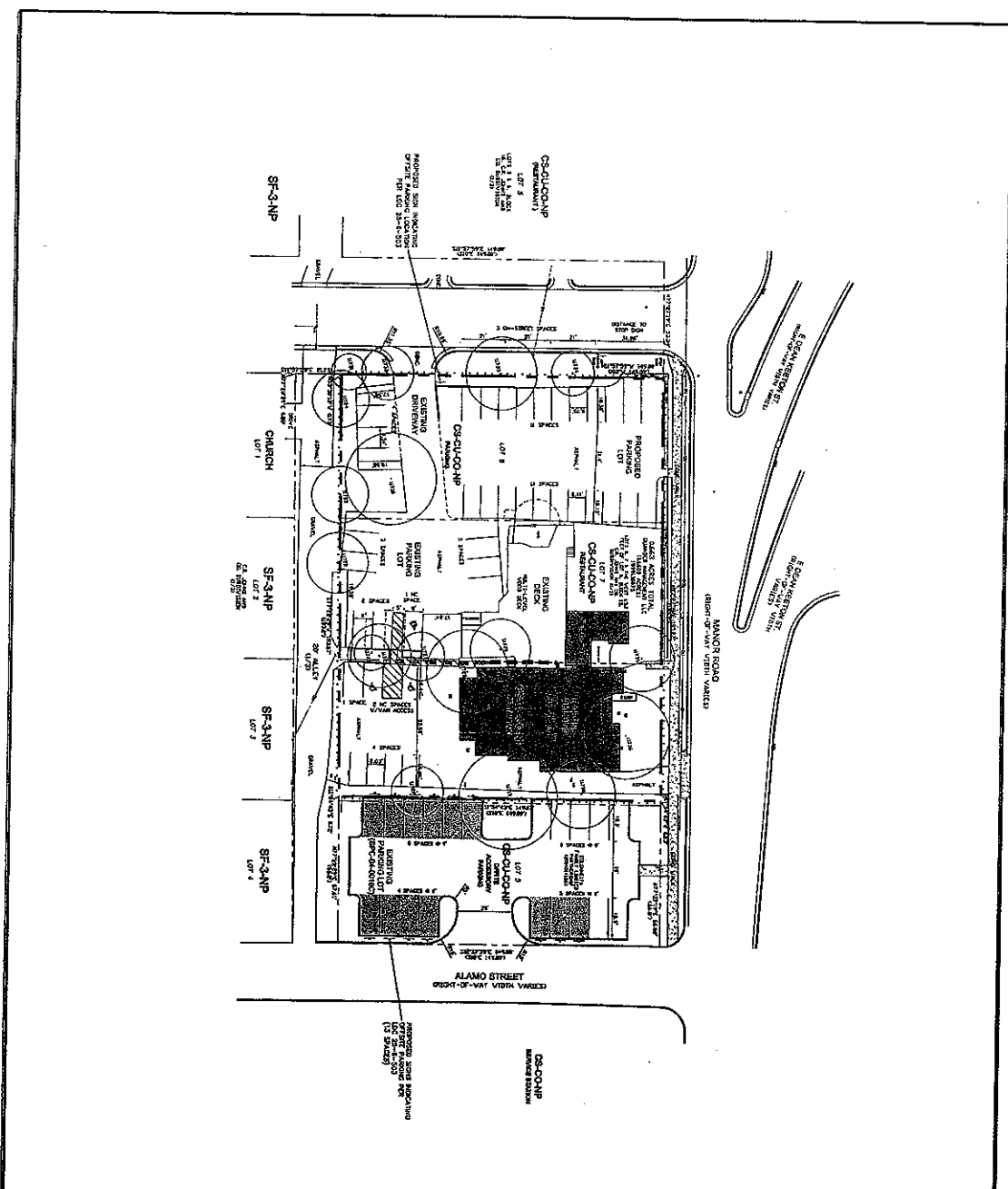
SUBJECT TRACT

ZONING BOUNDARY

CASE#: C15-2012-0003
 LOCATION: 2015 MANOR RD
 GRID: K23
 MANAGER: SUSAN WALKER



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



SCALE 1" = 30'
SCALE IN FEET

LEGEND

••••• ACCEPTED SIGN
 - - - - - LIMIT OF DISTURBANCE

NOTES

1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY OF AUSTIN.
2. THE CITY OF AUSTIN IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN.
3. THE CITY OF AUSTIN IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN.
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LEGISLATION

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LEGISLATION

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THOROVER DESIGN
 LAND PLANNERS

2015 MAJOR ROAD
 AUSTIN, TEXAS 78722

DATE

3

SCALE

1" = 30'

LEGISLATION

••••• ACCEPTED SIGN
 - - - - - LIMIT OF DISTURBANCE

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LEGISLATION

••••• ACCEPTED SIGN
 - - - - - LIMIT OF DISTURBANCE

NOTES

1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY OF AUSTIN.

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