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## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2013-0012 (Hooper Communities)

**Z.A.P. DATE:** May 21, 2013

**ADDRESS:** 9710-9718 Anderson Mill Road

**OWNER/APPLICANT:** Pohl Partners, Inc. (Kristiana Alfsen)

**AGENT:** ZFB, Ltd. (William Pohl, General Partner)

**ZONING FROM:** CS-CO, I-RR **TO:** CS-MU-CO      **AREA:** 7.8766 acres

### **SUMMARY STAFF RECOMMENDATION:**

The staff recommendation is to grant CS-MU-CO (General Commercial Services-Mixed Use-Conditional Overlay) district zoning with the following conditions: 1) The permitted "CS" district uses will be limited to Convenience Storage and all uses permitted in "LO" (Limited Office) district zoning that are also permitted in "CS" district zoning; 2) Limit development on the site to less than 2,000 vehicle trips per day; 3) A Convenience Storage use on the property will be limited to one story in height; 4) Mechanical equipment and dumpsters on the property shall be screened from the view of the adjacent single family residential properties to the north; 5) Exterior lighting must be hooded or shielded so that the light source is not directly visible from the adjacent single family residential properties to the north; and 6) An eight foot high solid fence shall be provided and maintained along the north property line that runs between the property and the adjacent single family residential properties.

### **ZONING AND PLATTING COMMISSION:**

#### **ISSUES:**

The zoning staff is aware of the critical environmental features on this site (please see Hydrologist Review comments below). The setbacks from these features will be addressed at the time of subdivision or site plan review in the development process.

### **DEPARTMENT COMMENTS:**

This property was annexed into the full purpose jurisdiction of the City of Austin on December 31, 2008, under annexation case C7A-08-009. A proposed site plan (SPC-2008-0090D) for a convenience storage use was filed more than 90 days before the annexation, thereby establishing a Continuation of Land Use pursuant to the Texas Local Government Code § 43.002:

(a) A municipality may not, after annexing an area, prohibit a person from:

- (1) continuing to use land in the area in the manner in which the land was being used on the date the annexation proceedings were instituted if the land use was legal at that time; or
- (2) beginning to use land in the area in the manner that was planned for the land before the 90<sup>th</sup> day before the effective date of the annexation if:

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- (A) one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
- (B) a completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.

Because the site plan was filed within the appropriate timeframe before annexation, the existing uses were determined on the property and considered grandfathered. Therefore, in the initial zoning case, C14-2008-0234, the staff recommended the continuation of these uses under the CS district for this site. The staff also recommended a conditional overlay that prohibited any uses allowed in the CS zoning district other than the current established use, and recommended permitting uses allowed in the LO zoning district that are also permitted in CS district zoning (see below). In this case, the staff recommends and the "MU" mixed use combining district to the "CS" zoning while continuing the existing conditional overlay for this property. Thereby permitting the following uses on this site:

Convenience Storage  
Bed & Breakfast (Group 1)  
Bed & Breakfast (Group 2)  
Condominium Residential  
Duplex Residential  
Group Residential  
Multifamily Residential  
Single-Family Attached Residential  
Single-Family Residential  
Small Lot Single-Family Residential  
Townhouse Residential  
Two-Family Residential  
Short-Term Rental  
Administrative and Business Offices  
Art Gallery  
Art Workshop  
Communication Services  
Medical Offices (exceeding 5000 sq. ft.)  
Medical Offices (not exceeding 5000 sq. ft.)  
Professional Office  
Software Development  
Communications Service Facilities  
Counseling Services  
Cultural Services  
Day Care Services (Limited, General, Commercial)  
Family Home  
Group Home, Class I (Limited, General)  
Local Utility Services  
Private Primary Educational Facilities  
Public Primary Educational Facilities  
Public Secondary Educational Facilities  
Religious Assembly  
Safety Services

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The staff is supportive of the applicant's request to add the Mixed Use Combining District to the current zoning because the addition of residential uses to the site will allow for less intensive development on the property adjacent to a single-family residential neighborhood to the north, a day care facility to the east and a religious assembly use to the west. This request is reasonable given the property's location/frontage on a major retail corridor/arterial roadway, Anderson Mill Road, and the surrounding residential (SF-2), office (LO, LO-CO) and commercial (LR-CO, GR) uses and zoning.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS-CO, I-RR	Undeveloped Tract
<i>North</i>	SF-2	Single-Family Residential Neighborhood
<i>South</i>	LO, LR-CO	Service Station and Food Sales (Valero, R&Z Food Mart), Oak Park Office Center, Retail Center (Arboretum Park: Woodland Montessori, Homecare, Eagle Rehab, Berkeley Academy, Korey Howell Photography, Austin Title, Republic Spine & Pain, Building Blocks Children's Therapy, Lexington Financial, Tender Laser Care, Vital Sleep)
<i>East</i>	I-RR, LO-CO, DR	Day Care Facility (Xplorer), Funeral Home (Chapel of the Hills Funeral Home)
<i>West</i>	I-RR	Undeveloped Tract, Cell Tower, Parking Area (for Bethany Methodist Church)

**AREA STUDY:** N/A

**TIA:** Waived

**WATERSHED:** Lake Creek, Bull Creek

**DESIRED DEVELOPMENT ZONE:** No

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

Acres West Homeowners Association  
 Anderson Mill Neighborhood Association  
 Austin Heritage Tree Foundation  
 Austin Monorail Project  
 Beyond2ndNature  
 Bike Austin  
 Bull Creek Foundation  
 Cottage at Lake Creek Home Owners Association  
 Homeless Neighborhood Organization  
 Long Canyon Homeowners Association  
 Long Canyon Phase II & LLL Homeowners Association, Inc.  
 SELTEXAS  
 Sierra Club, Austin Regional Group  
 Spicewood Springs Road Tunnel Coalition  
 Super Duper Neighborhood Objectors and Appealers Organization  
 The Real Estate Council of Austin, Inc.

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**SCHOOLS:**

Hill Elementary School  
 Murchison Middle School  
 Anderson High School

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2008-0234 (ZFB, Ltd. Rezoning: 9710- 9718 Anderson Mill Road)	I-RR to CS	4/07/09: Approved CS-CO zoning on consent (7-0)	6/11/09: Approved CS-CO zoning with the following conditions: 1) One story convenience storage as the only (CS) commercial services use, 2) Permit all other (LO) limited office type uses, 3) Require a 2,000 trip limitation per day. The additional permitted uses were as follows: art gallery and software development. A right-of-way of 114 feet for Anderson Mill road if zoning is granted. Direction was given to staff to bring the item back for second and third readings on June 18, 2009. A friendly amendment was made by Council Member Morrison to add as additional conditional uses screening mechanical equipment on the roof and to have compatibility standard for screening and lighting. The friendly amendment was accepted by Council Member Leffingwell, the maker of the motion, and Council Member Shade, who seconded the motion. Vote: 6-0, S. Cole-absent); L Leffingwell-1 <sup>st</sup> , R. Shade-2 <sup>nd</sup> .
C14-2007-0191 (Anderson Mill Children's Courtyard Day Care: 9706 Anderson Mill Road)	DR to GR	11/20/07: Approved staff recommendation of LO-CO zoning, with a CO to limit the development intensity for the entire site to less than 2,000 vehicle trips per day and a street deed to dedicate 57 feet of right-of-way from the existing centerline of Anderson Mill Road (7-0, S. Hale- absent); J. Martinez-1 <sup>st</sup> , K. Jackson-2 <sup>nd</sup> , with the following additional conditions:	12/06/07: Approved ZAP recommendation of LO-CO zoning on Council Member Martinez' motion, Council Member Martinez' motion, Council Member Leffingwell's second (7-0); 1 <sup>st</sup> reading  1/31/08 : Approved LO-CO zoning with conditions by consent (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings

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		<p>1) Prohibit the following uses: Urban Farm, Club or Lodge, College and University Facilities, Community Events, Community Recreation (Private), Community Recreation (Public), Congregate Living, Group Home, Class I (General), Group Home, Class I (Limited), Group Home, Class II, Hospital Services (Limited), Private Secondary Educational Facilities, Public Primary Educational Facilities, Public Secondary Educational Facilities, Residential Treatment, Safety Services;</p> <p>2) Require a sound retarding fence to be constructed along the north property line adjacent to the single family residential property. (The applicant will be seeking a Board of Adjustment variance to provide a ten foot (10') sound retarding fence at this location. This requirement will be noted in a private restrictive covenant between the applicant and the neighborhood.);</p> <p>3) Require an eight foot (8') sound retarding fence to be constructed along the side property lines for a minimum distance of 150-feet.</p>	
C14-06-0002	SF-1 to LR	<p>5/02/06: Approved LR-CO district zoning; limited to Financial Services, Pet Services, Restaurant (Limited), General Retail Sales (Convenience), and Personal Services as the only 'LR' district uses; permit all other 'LO' district uses, prohibit Drive-In Services, Food Sales, and Service Station uses; limit development intensity on the site to less than 2,000 vehicle trips per day (8-0, J. Martinez-absent)</p>	<p>6/08/06: Approved LR-CO district zoning by consent (7-0)</p>

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C14-05-0109		8/16/05: Approved staff's recommendation for LR-CO zoning (The CO will limit the development intensity for the entire site to less than 2,000 vehicle trips per day. In addition, if the requested zoning is granted, the staff also recommends that 57-feet of right-of-way should be dedicated in accordance with the Roadway Plan through a street deed.), with an added condition to prohibit Drive-Through Services, by consent (8-0, K. Jackson-absent)	9/29/05: Approved LR-CO by consent (7-0); all 3 readings
C14-02-0140	RR to SF-6	3/4/03: Approved SF-6-CO zoning with following conditions: 1) A fifteen-foot (15') vegetative buffer strip within the compatibility setback along the south and west property lines; 2) Fencing along the south and west property lines; 3) A unit limit of 12 residential units; (8-0, M. Whaley-absent)	4/03/03: Granted SF-6-CO on all 3 readings (5-0-2, Wynn/Goodman of dias)
C14-02-0134	LR-CO to SF-6	9/24/02: Approved staff's recommendation of SF-6 zoning, by consent (5-0, D. Castaneda, B. Baker- absent)	10/24/02: Granted SF-6 on 1st reading – Staff to report back on flooding complaints: What s been done and what the applicant can do to help mitigate the situation. (5-0, Garcia-off dais, Dunkerley- absent)  2/27/03: Approved (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-01-0142	RR, SF-1 to LR	1/22/02: Approved staff's rec. on LR-CO zoning. (8-0, A. Adams-absent)	2/28/02: Approved LR-CO zoning by consent on first reading (6-0-1, Thomas-off dias)  3/21/02: Approved LR-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings.
C14-99-2033	RR to LO	10/05/99: Approved LO-CO allowing only 'NO' uses w/ 'LO' site regulations (8-0)	11/04/99: Approved PC rec. of LO-CO on 1 <sup>st</sup> reading (6-0); subject to current watershed regulations

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			3/30/00: Approved 2 <sup>nd</sup> / 3 <sup>rd</sup> readings (6-0)
C14-98-0267	I-RR to GR	3/02/99: Approved staff rec. of LR-CO (5-3, BB/ JM/ RV-Nay)	4/01/99: Approved PC rec. of LR-CO w/ conditions (6-0), 1 <sup>st</sup> reading 5/06/99: Approved LR-CO w/ conditions (7-0); and/ 3 <sup>rd</sup> readings
C14-98-0196	SF to GO	12/08/98: Approved LO (8-0)	1/07/99: Approved PC rec. of LO w/ conditions (7-0); 1 <sup>st</sup> reading 2/04/99: Approved LO (7-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings
C14-98-0135	I-RR to GR	10/27/98: Approved staff rec. of GR-CO w/ conditions: 50' greenbelt maintained w/ no impervious cover (6-0)	12/03/98: Approved PC rec. of GR-CO w/ conditions (6-0), 1 <sup>st</sup> reading 2/11/99: Approved GR-CO w/ conditions (6-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings

**RELATED CASES:**

**Annexation:**

NUMBER	REQUEST	YEAR
C7A-84-021	Limited Annexation (1984)	1984
C7AD-89-043	Disannexation into 2-mile ETJ	1989
C7A-08-009	Full purpose annexation (2008)	2008

**Zoning:**

NUMBER	REQUEST	CITY COUNCIL
C14-2008-0234	I-RR to CS	6/11/09: Approved CS-CO zoning with conditions (please see Case Histories above).

**ABUTTING STREETS:**

NAME	ROW	PAVMENT	CLASSIFICATION	DAILY TRAFFIC
Anderson Mill Road	100'	50'	Major Arterial	N/A

**CITY COUNCIL DATE:** June 20, 2013

**ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>

2<sup>nd</sup>

3<sup>rd</sup>

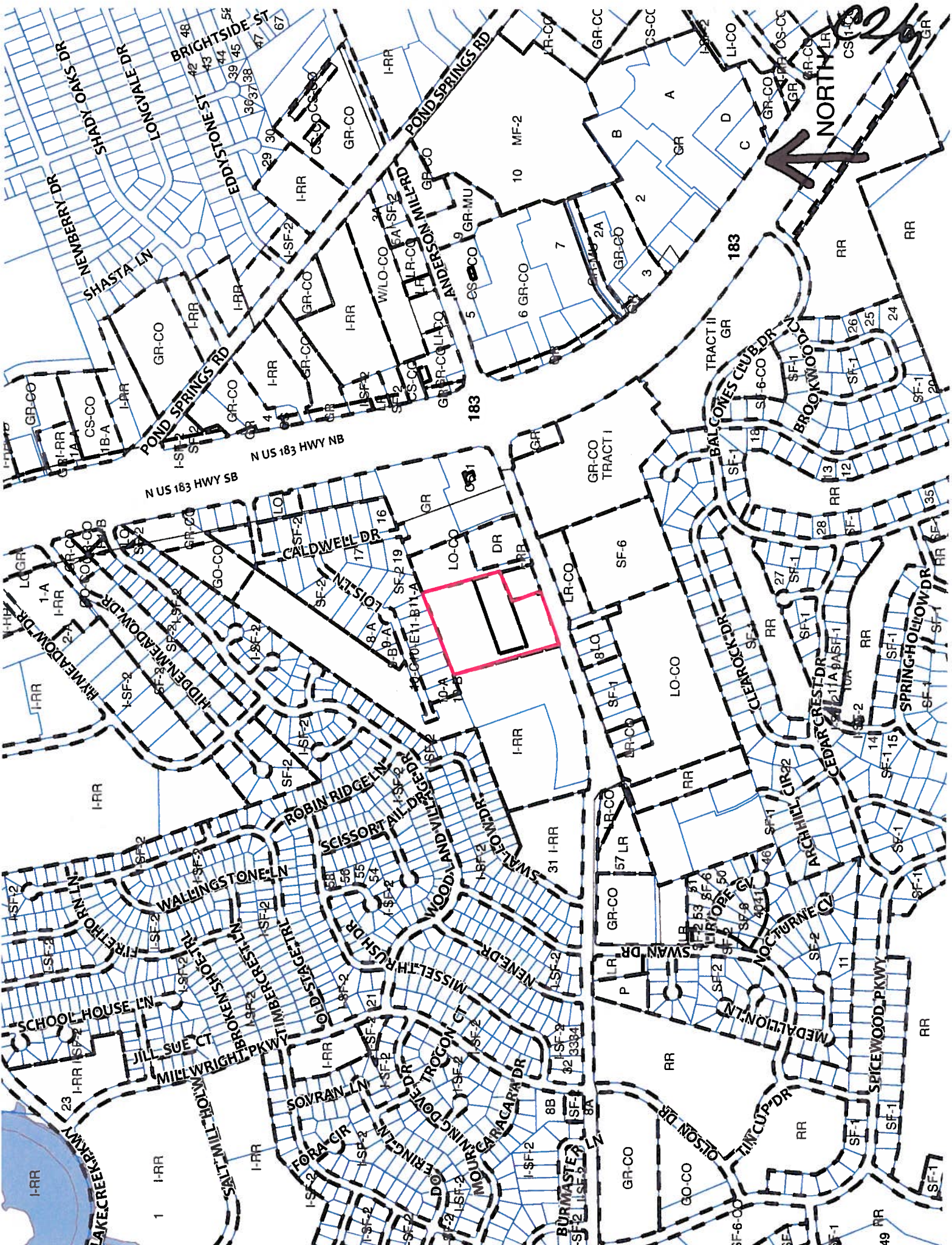
**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

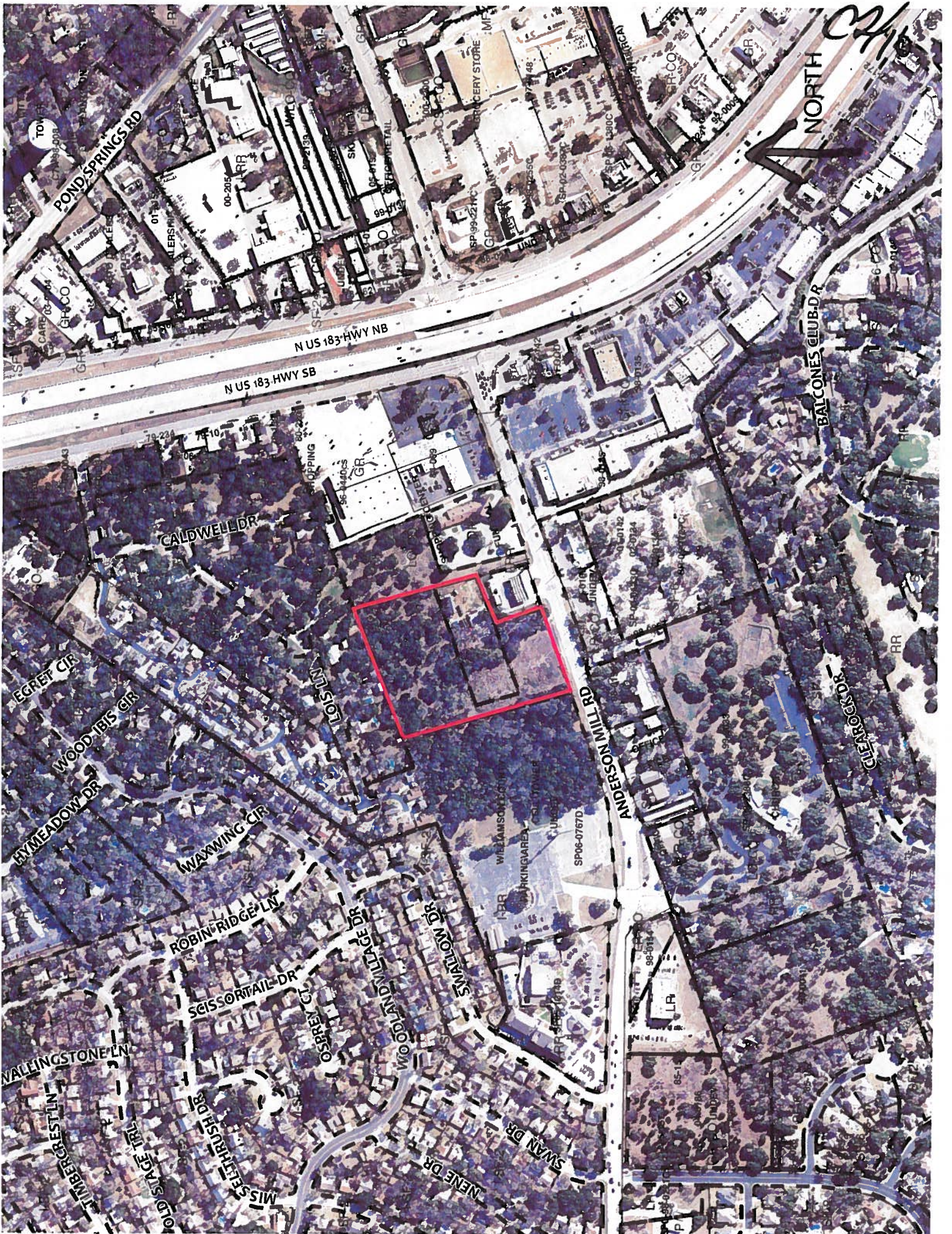
**PHONE:** 974-3057,  
sherri.sirwaitis@ci.austin.tx.us













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## STAFF RECOMMENDATION

The staff recommendation is to grant CS-MU-CO (General Commercial Services-Mixed Use-Conditional Overlay) district zoning with the following conditions: 1) The permitted "CS" district uses will be limited to Convenience Storage and all uses permitted in "LO" (Limited Office) district zoning that are also permitted in "CS" district zoning; 2) Limit development on the site to less than 2,000 vehicle trips per day; 3) A Convenience Storage use on the property will be limited to one story in height; 4) Mechanical equipment and dumpsters on the property shall be screened from the view of the adjacent single family residential properties to the north; 5) Exterior lighting must be hooded or shielded so that the light source is not directly visible from the adjacent single family residential properties to the north; and 6) An eight foot high solid fence shall be provided and maintained along the north property line that runs between the property and the adjacent single family residential properties.

## BASIS FOR RECOMMENDATION

### *1. Zoning should allow for reasonable use of the property.*

Because the site plan was filed within the appropriate timeframe before annexation, the existing uses were determined on the property. The staff recommends the continuation of these uses under CS, as well as uses allowed under both CS and LO zoning. Staff further recommends adding MU, Mixed Use Combining District zoning to the site to will allow for less intensive development on the property adjacent to a single-family residential neighborhood to the north, a day care facility to the east and a religious assembly use to the west.

## EXISTING CONDITIONS

### Site Characteristics

The property in question is an undeveloped grassy, moderately vegetated tract of land. To the north, there are single-family residential uses. To the east there is a day care facility (Xplorer) and a funeral home (Chapel of the Hills Funeral Home). The property to the west consists of an undeveloped tract of land, a telecommunications tower, and a parking area for the Bethany Methodist Church. To the south, across Anderson Mill Road, there is a retail and office strip center (Arboretum Park: Woodland Montessori, Homecare, Eagle Rehab, Berkeley Academy, Korey Howell Photography, Austin Title, Republic Spine & Pain, Building Blocks Children's Therapy, Lexington Financial, Tender Laser Care, Vital Sleep).

### Comprehensive Planning

This zoning case is located on the south side of Anderson Mill Road, approximately 800 feet west of Research Blvd/Hwy 183. The subject property is not located within the boundaries of a neighborhood planning area. Surrounding land uses include a convenience store and vacant land to the north, single family houses to the south, retail and offices to the west, and a small shopping center to the east. The property contains a variety of offices and medical buildings. The proposed use is townhomes.

The property is located within the boundaries of the Barton Creek Contributing Zone, as identified on the Imagine Austin's Growth Concept Map, found in the Image Austin Comprehensive Plan (IACP). An aquifer contributing zone is an area where runoff from precipitation flows to the recharge zone of an aquifer. Streams in the contributing zone flow downstream into the recharge zone and "contribute"

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water to the aquifer. The overall goal of the IACP is to achieve 'complete communities' across Austin, where housing, services, retail, jobs, entertainment, health care, schools, parks, and other daily needs are within a convenient walk or bicycle ride of one another. Page 107 of the IACP states, *"While most new development will be absorbed by centers and corridors, development will happen in other areas within the city limits to serve neighborhood needs and create complete communities. Infill development can occur as redevelopment of obsolete office, retail, or residential sites or as new development on vacant land within largely developed areas. New commercial, office, larger apartments, and institutional uses such as schools and churches, may also be located in areas outside of centers and corridors. The design of new development should be sensitive to and complement its context. It should also be connected by sidewalks, bicycle lanes, and transit to the surrounding area and the rest of the city. It should also be connected by sidewalks, bicycle lanes, and transit to the surrounding area and the rest of the city. Not all land within the city limits will be developed. Some may remain or enter into agricultural production; continue as single-family houses, duplexes, and apartments; or become part of the planned open space network. The Growth Concept Map not only guides where Austin may accommodate new residents and jobs but also reflects the community intent to direct growth away from environmentally sensitive areas including, but not limited to, the recharge and contributing zones of the Barton Springs segment of the Edwards Aquifer, and to protect the character of neighborhoods by directing growth to areas identified by small area plans."*

The following Imagine Austin policies are taken from Chapter 4 of the IACP, which specifically discusses neighborhood serving land uses and developing over environmentally sensitive areas:

- **LUT P5.** Create healthy and family-friendly communities through development that includes a **mix of land uses** and housing types and affords realistic opportunities for transit, bicycle, and pedestrian travel and provides both community gathering spaces, parks and safe outdoor play areas for children.
- **LUT P7.** Encourage infill and redevelopment opportunities that place residential, work, and retail land uses in proximity to each other to maximize walking, bicycling, and transit opportunities.
- **LUT P22** Protect Austin's natural resources and environmental systems by limiting land use and transportation development in sensitive environmental areas and preserving areas of open space.
- **HN P11.** Protect neighborhood character by directing growth to areas of change and ensuring context sensitive infill in such locations as designated redevelopment areas, corridors, and infill sites.
- **N P1.** Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to schools, **retail**, employment, community services, and parks and recreation options.

Based upon: (1) the property being located along a major retail corridor; (2) existing office and medical office buildings that already exist on the site; and (3) the Growth Concept Map and the Imagine Austin policies referenced above, staff believes that the proposed townhome use is supported by the Imagine Austin Comprehensive Plan.

#### **Hill Country Roadway**

The site is not within a Hill Country Roadway Corridor.

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### **Hydrologist Review**

There is a sinkhole with a large catchment area and two other sinkholes that are located on this site. Please contact this reviewer at the site plan or subdivision submittal phase to discuss protection of these features.

### **Environmental**

The site is located over the North Edwards Aquifer Recharge Zone. It is in the Lake Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. However, the site is located close to the boundary between the Lake Creek Watershed (Suburban Watershed Classification, Desired Development Zone) and the Bull Creek Watershed (Water Supply Suburban Watershed Classification, Drinking Water Protection Zone). A geological and / or topographical analysis of the site may be needed to determine the exact boundaries of the aforementioned watersheds and zones.

According to floodplain maps there is no floodplain within or adjacent to the project boundary.

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

Numerous 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.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8: Endangered Species in conjunction with subdivision and/or site plan process.

### **Impervious Cover**

The maximum impervious cover allowed by the CS zoning district would be 95 %. However, because the Watershed impervious cover is more restrictive than the CS zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance.

The following are the comments for each watershed classification:

#### **Suburban Watershed Classification**

Development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
Single-Family Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%

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Commercial	65%	70%
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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.

Water Supply Suburban Watershed Classification

Development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

Site Plan

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 north property line, the following standards apply:

- a. No structure may be built within 25 feet of the property line.
- b. No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- c. No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- d. No parking or driveways are allowed within 25 feet of the property line.
- e. A landscape area at least 25 feet wide is required along 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.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

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### **Transportation**

The Austin Metropolitan Area Transportation Plan calls for 114 feet of right-of-way for Anderson Mill Rd. If the requested zoning is granted for this site, then 57 feet of right-of-way from the existing centerline should be dedicated for Anderson Mill Rd. according to the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55]. Currently, there is approximately 50 feet of right-of-way available. An additional 7 feet would be required from the subject parcel. The staff has agreed to defer the dedication of right-of-way to the subdivision or site planning stage of development as stated in the public restrictive covenant for zoning case C14-2008-0234 that covers this property.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Anderson Mill Road	100	MAU4	Arterial	No	Yes	Yes

### **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 land use. The water and wastewater utility plan 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.