

C10/1

ZONING CHANGE REVIEW SHEET

CASE: C14-2013-0021

Tomlinson's Feed & Pets Rezoning

P. C. DATE: 05/14/13, 05/28/13, 11/12/13

ADDRESS: 4914 Bennett Ave.

AREA: 0.25 acres

APPLICANT: Tomlinson's Feed & Pets, Inc.
(Scott Click)

AGENT: Thrower Design
(Ron Thrower)

NEIGHBORHOOD PLAN AREA: North Loop

CAPITOL VIEW: No

T.I.A.: Waived – See the Transportation
Reviewer's comments.

HILL COUNTRY ROADWAY: No

WATERSHED: Boggy Creek

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: SF-3-NP, Family Residence, Neighborhood Plan.

ZONING TO: GR-MU-NP, Community Commercial, Mixed Use, Neighborhood Plan.

SUMMARY STAFF RECOMMENDATION:

Staff recommends GO-MU-CO-NP, General Office, Mixed Use, Conditional Overlay, Neighborhood Plan. The Conditional Overlay would limit vehicle trips to less than 2,000 per day.

PLANNING COMMISSION RECOMMENDATION:

DEPARTMENT COMMENTS:

The Airport Boulevard Form-Based Code (ABFBC) emerging recommendations seek to implement character districts which will replace existing zoning classifications and reference form and building design standards in the ABFBC. The property at 4914 Bennett Ave. will be part of the Neighborhood Transition Zone under the ABFBC which provides for a range of urban residential uses and building types including live-work (administrative and business office), townhomes, duplexes, patio homes, etc., as transitions between the Airport Boulevard Corridor and adjoining single-family neighborhoods. Development standards in this Character Zone emphasize smaller scale urban residential uses and establishing building transition standards to adjoining neighborhoods. Development standards also emphasize keeping with the scale and lotting pattern of the adjoining neighborhood by allowing smaller multi-unit homes and live-work units to be interspersed with some existing single-family homes thus increasing the opportunities for affordable and attainable housing choices adjacent to Airport Boulevard.

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The following are permitted uses under the Neighborhood Transition area:

- Bed & Breakfast (Group 1 and 2)
- Duplex Residential
- Group Residential
- MultiFamily Residential
- Retirement Housing (Small site)
- SF Attached Residential
- SF Residential (Detached)
- Small Lot SF Residential
- Townhouse Residential
- Two-Family Residential
- Home Occupation
- Building Maintenance Services*
- Admin and Business Offices**
- Art Gallery**
- Art Workshop**

* Permitted with additional criteria

**Less than 6,000 sq.ft. in Neighborhood Transition Zones

Granting General Office (GO) zoning would act as a buffer for the single family residences to the north as well as conform to the emerging recommendations in the Airport Boulevard Form Based Code initiative that is currently under way.

BASIS FOR RECOMMENDATION:

1. The proposed zoning should be consistent with the goals and objectives of the City Council.

Granting General Office (GO) zoning would act as a buffer for the single family residences to the north as well as conform to the emerging recommendations in the Airport Boulevard Form Based Code initiative that is currently under way.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	SF-3-NP	Undeveloped
NORTH	SF-3-NP	Single family residential
SOUTH	GR-CO-NP	Feed Store
EAST	SF-3	Single family residential
WEST	GR-V-CO-NP	Clock shop

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-06-0004 910 E. 51 st St.	SF-3-NP to NO-MU-NP	Approved NO-MU-CO [Vote: 8-0]	Approved NO-MU-CO [Vote: 7-0]

NEIGHBORHOOD ORGANIZATION:

- Austin Neighborhood Council
- North Austin Neighborhood Alliance
- Ridgetop Neighborhood Assoc.

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SCHOOLS:

Lee Elementary School
Kealing Middle School
McCallum High School

SITE PLAN:

- SP 1. Site plans will be required for any new development other than single-family or duplex residential.
- SP 2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

ENVIRONMENTAL:

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to floodplain maps there is no floodplain within the project area.
5. 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.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

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TRANSPORTATION:

TR1. No additional right-of-way is needed at this time.

TR2. 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]

TR3. Bennett Avenue is not classified in the Bicycle Plan.

TR4. Capital Metro bus service is not available along Bennett Avenue.

TR5. There are no existing sidewalks along Bennett Avenue.

TR6. Existing Street Characteristics:

Name	ROW	Pavement	Classification	ADT
Bennett Avenue	50'	30'	Collector	662

CITY COUNCIL DATE: June 6th, 2013

ACTION:

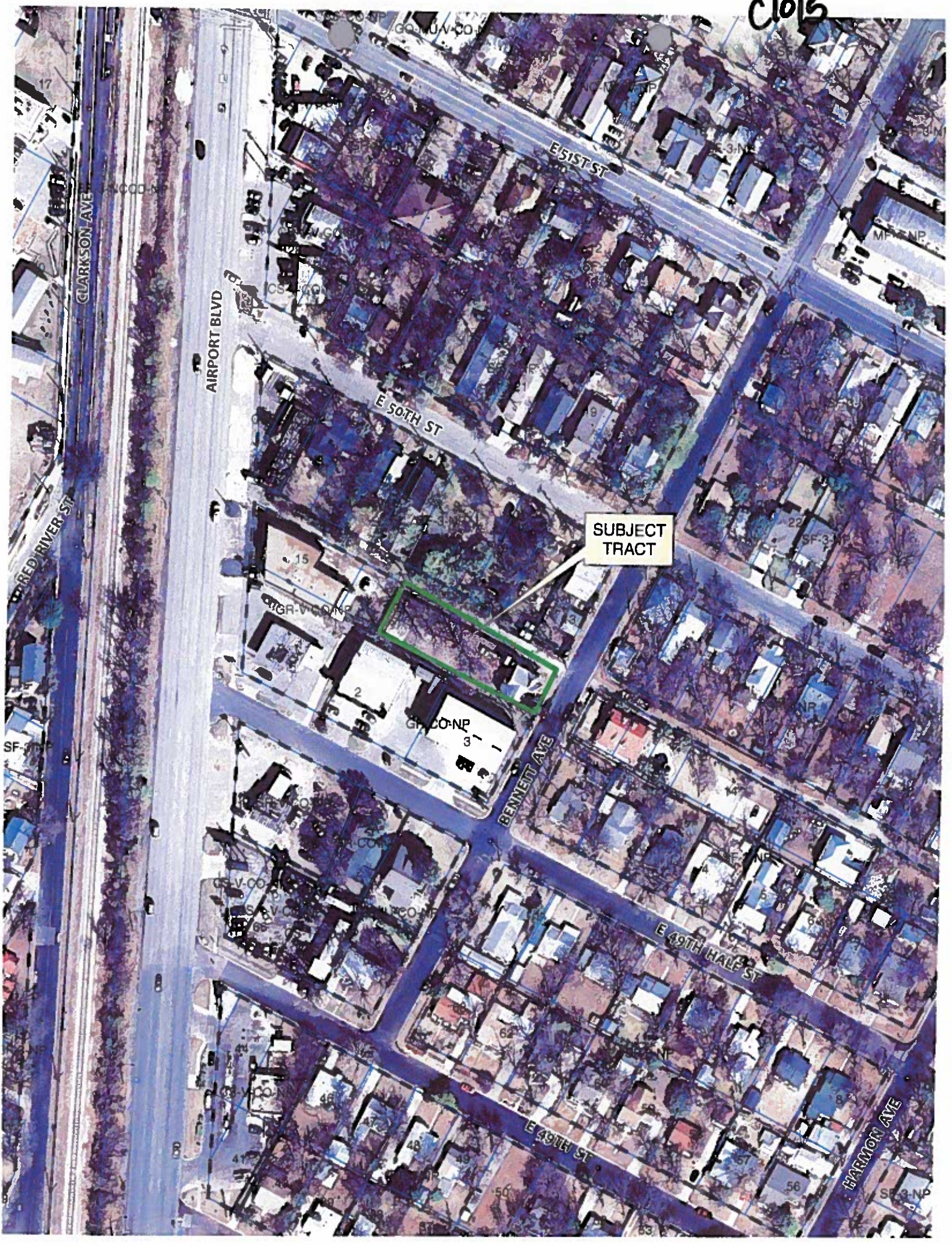
ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

PHONE: 974-7691

C1015



CLARKSON AVE

AIRPORT BLVD

E 51ST ST

E 50TH ST

SUBJECT TRACT

BENNETT AVE

E 49TH ST

HARMON AVE



ZONING
ZONING CASE#: C14-2013-0021

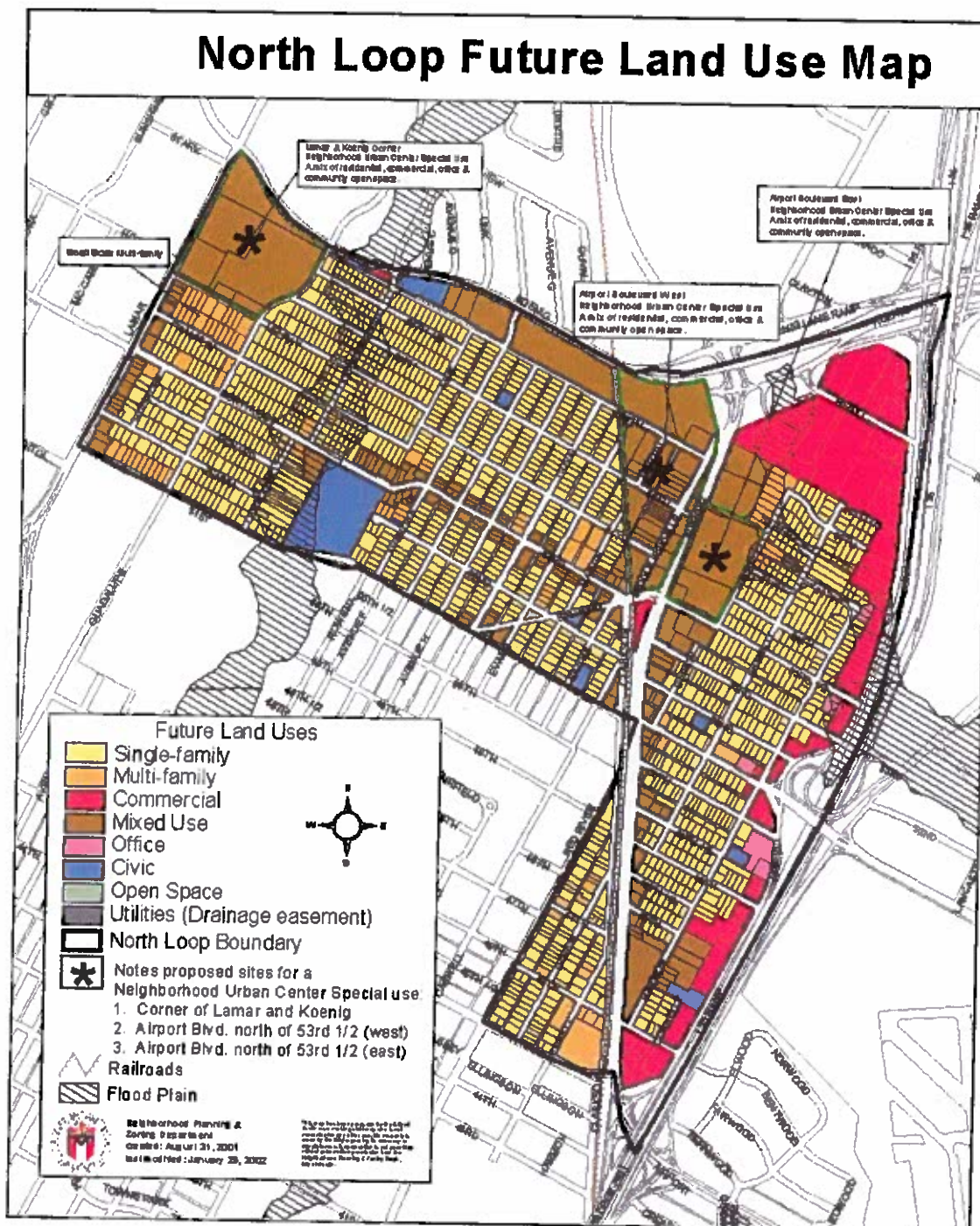


This product is for informational purposes and may not have been prepared for or be suitable for legal engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by C TM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

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The map on this page shows **future land use**. The Future Land Use Map represents the neighborhood's vision for how land use changes will take place over the next 20-25 years. It is a long term planning resource that represents a blue print for how the neighborhood would like the area developed in the future.



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Future Land Use along Airport Blvd.

- Single family
- Multi-family
- Commercial
- Mixed Use
- North Loop Boundary
- Proposed Urban Center Site
- Railroads
- Flood Plain

Legend:

- Single family
- Multi-family
- Commercial
- Mixed Use
- North Loop Boundary
- Proposed Urban Center Site
- Railroads
- Flood Plain

Map Labels:

- CLAYTON
- KOENIG
- BROADVIEW
- ROSEMONT
- CLAYTON
- REINLI
- CORONA
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Text Boxes:

- Airport Boulevard East
Neighborhood Urban Center Special Use
A mix of residential, commercial, office & community open space.
- Airport Boulevard West
Neighborhood Urban Center Special Use
A mix of residential, commercial, office & community open space.

Map Title: Future Land Use along Airport Blvd.

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City of Austin

Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
Urban Design Division
P.O. Box 1088, Austin, Texas 78767

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May 10, 2013

Mr. Ron Thrower
Thrower Design
P.O. Box 41957
Austin, Texas 78704

Re: Tomlinson's Rezoning Request on Bennett Ave.; Case No. C14-2013-0021

Dear Mr. Thrower,

This letter is in response to the questions you submitted on May 8, 2013 requesting clarification on various issues related to the plan amendment and rezoning request for the property at 4914 Bennett Ave. under the rezoning case named above.

Question 1: The property is within the Airport Corridor Boundary.

Answer: Correct. The subject property considered under the plan amendment and the rezoning request as outlined above lie within the Airport Boulevard Form-Based Code (FBC) study area currently in progress and as depicted in the Illustrative Vision. The draft FBC standards are based on the Illustrative Vision which was vetted by the community and the Council-appointed Advisory Group in 2012.

Question 2: The property is designated as Neighborhood Transition in the DRAFT Airport Corridor Regulating Plan.

Answer: Correct. The subject property is designated within the Neighborhood Transition Character Zone (NT) in the DRAFT Airport Blvd. Form-Based Code Regulating Plan in accordance with the Illustrative Vision.

The recommended NT under the draft FBC provides for a range of urban residential uses and building types including live-work (administrative and business office), townhomes, duplexes, patio homes, etc., as transitions between the Airport Boulevard Corridor and adjoining single-family neighborhood. Development standards in this character zone emphasize small scale urban residential uses and establish building transition standards. Development standards also emphasize keeping with the scale and lot pattern of the adjoining neighborhood by allowing smaller multi-unit homes and live-work units to be interspersed with some existing single-family homes thus increasing the opportunities for affordable and attainable housing choices adjacent to Airport Blvd.

Question 3: Properties across Bennett from the Tomlinson's property are also designated as Neighborhood Transition.

Answer: Incorrect. Currently, the NT character zone in the DRAFT Airport Blvd. Form-Based Code Regulating Plan stops at Bennett Ave. and does not include the block east of Bennett Ave. across from the subject property.

Question 4: Essentially, the commercial uses currently allowed under "LO" Limited Office zoning are proposed as the permitted commercial uses within the Neighborhood Transition areas.

Answer: In the emerging draft FBC the following commercial land uses are allowed in the NT character zone with additional criteria under the FBC:

- Admin and Business Offices- currently allowed under LO;
- Art Gallery- currently allowed under LO;
- Art Workshop- currently allowed under LO; and
- Building Maintenance Services – NOT currently allowed under LO.

Question 5: The Neighborhood Transition areas are proposed with front setbacks with a minimum of 5' and a maximum of 15'.

Answer: The preliminary Airport Blvd. FBC standards classify building placement by street frontage priority. The subject property as per the draft Airport Boulevard Regulating Plan has *General Frontage* on Bennett Ave. to the east and on the abutting alley to the north. Therefore, the proposed setbacks under the emerging FBC are 5 feet minimum setback with no maximum.

Question 6: The Airport Corridor Regulating Plan is at least 1-year out from being adopted. There have not been any Advisory Group meetings for 15 months as the process has been delayed due to untimely delivery of the Regulating Plan.

Answer: Incorrect. The complete draft FBC and accompanying attachments were delivered to the project management team on May 1, 2013 and is currently under internal Staff review. AG meetings have not been scheduled as Staff and the Consultant were developing a complete draft of the FBC instead of the original plan for a phased approach given the interrelated nature of the different code sections. It is not anticipated that consideration of the FBC and Regulating plan take one year. The tentative schedule going forward is as follows:

1. Staff will complete review and assessment of the working draft through early **June 2013**;
2. Once the Consultant has made Staff-recommended improvements to the draft, an Advisory Group (AG) meeting will be scheduled and is **anticipated for late-June**;
3. The AG and the community will then have through **late-July** to review the draft Code content noting comments and questions in preparation for wide community outreach, engagement, and input efforts to commence **late July**;
4. With assistance from the AG, we will commence neighborhood Roundtables in **late July** and they will likely continue through **September**;

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5. As neighborhood Roundtables continue through **September**, the AG will hold several meetings throughout the summer to review specific sections of the Code;
6. Once the neighborhood Roundtables and community outreach is complete, we will schedule a Community Open House to roll-out the FBC to community members that were not able to participate in roundtables – **anticipated for the fall**;
7. The AG will continue their review and comments through the fall; and
8. The final draft code will be presented to the Planning Commission's Neighborhood Planning Committee in late fall, and **Boards and Commissions and City Council at the end of the year.**

If we are successful in keeping the timeline described above, we should be at the City Council for consideration of the FBC by the end of 2013 and possibly into early 2014.

The draft FBC is at the very early stages of review and has just reached Staff for internal vetting. As you can see from the proposed timeline, there will be ample opportunities for public review and input by the AG and the community including statutory public hearings at the end of the year.

If further clarification is needed, please contact me at (512) 974-2975.

Sincerely,



Jorge E. Rousselin, Development Services Process Coordinator
Urban Design Division – Planning and Development Review Department

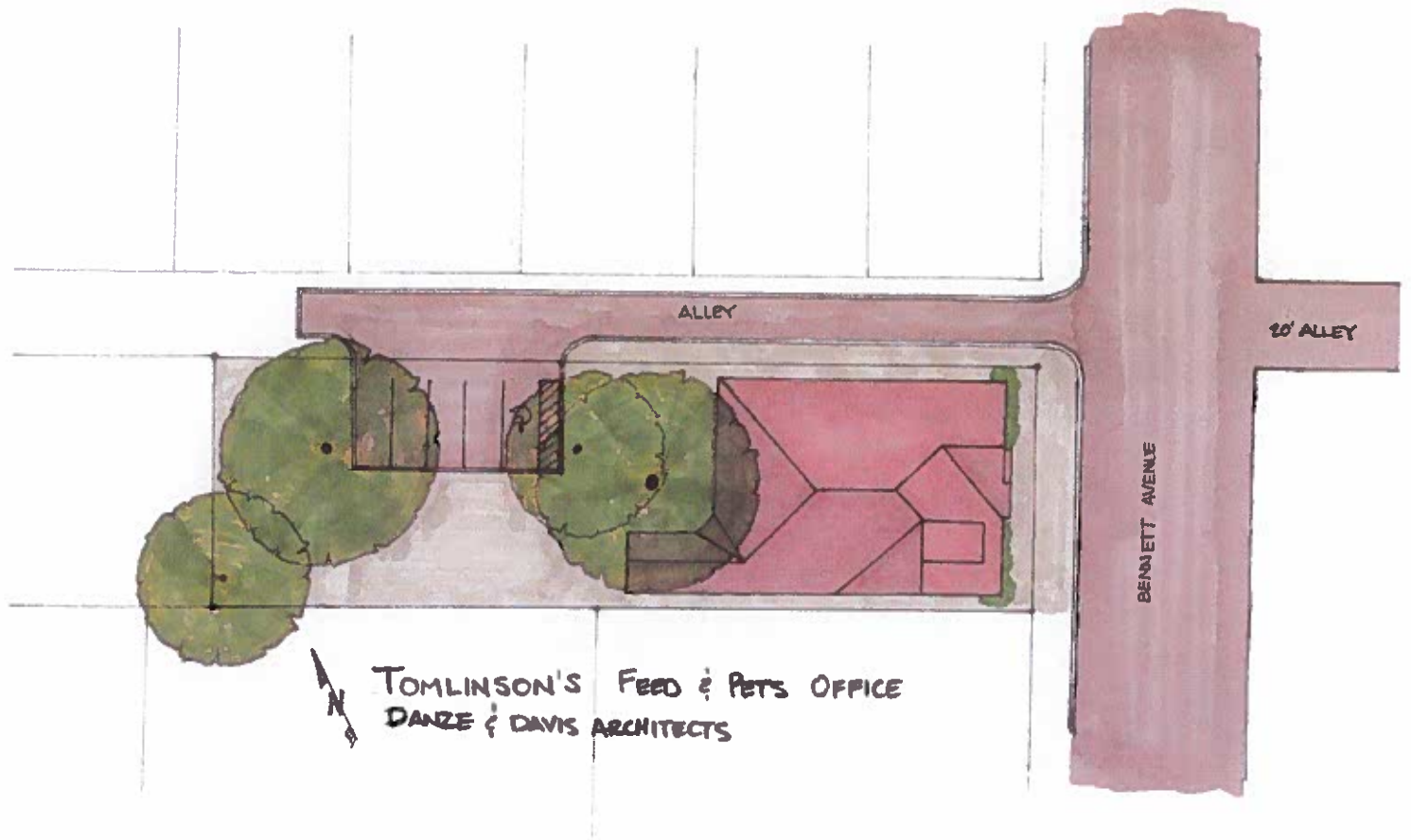
cc: George Adams, Assistant Director, PDRD
Garner Stoll, Assistant Director, PDRD
Alan Holt, Principal Planner, PDRD
Clark Patterson, Zoning Case Manager, PDRD
Maureen Meredith, Comprehensive Planning, PDRD
Scott Polikov, Gateway Planning
Jay Narayana, Gateway Planning

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TOMLINSON'S FEED & PETS OFFICE
DANIEL DAVIS ARCHITECTS

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NORTH LOOP NEIGHBORHOOD PLANNING TEAM

SUPPORTING A VISION FOR NORTH-CENTRAL AUSTIN

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April 29, 2013

Re: Case Number NPA-2013-0011.02

To whom it may concern:

The North Loop Neighborhood Planning Team has been discussing a request for a change in zoning for the property located at 4914 Bennett Avenue (78751). The submitted request states that the property owners would like to change the future land use designation for the specified property within the North Loop Neighborhood Plan from single family to mixed use, changing the zoning from SF-3 to GR. The proposal also states that the owners are asking for a conditional overlay to restrict the uses of the property to those that would exist under LO zoning.

After much discussion with the property owners and their agents, the Planning Team has voted to support the change in zoning for this property from SF-3 to GR with the conditional overlay described above. However, it should be noted that there would likely be no support from the Planning Team for a zoning change without this conditional overlay.

Planning Team members agreed that the location of this particular site makes future SF-3 uses unlikely (this site is currently vacant), and that the development proposed by the current land-owner is quite consistent with immediately adjacent properties.

Sincerely,

Sebastian Wren
Chair – NLNPT

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Thrower Design

P. O. Box 41957
Austin, Texas 78704
(512) 476-4456

April 1, 2013

Mr. Greg Guernsey, Director
Planning & Development Review
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: Tomlinson's Feed & Pets Neighborhood Plan Amendment and Rezoning
4914 Bennett Avenue
NPA –
Rezoning

Dear Mr. Guernsey,

The two above referenced cases have recently been filed with the City of Austin for review and timely consideration by the staff, Planning Commission and City Council. The subject property is currently located within the boundaries of the Airport Boulevard Form-Based Code Area; however, the landowners cannot wait for that plan to be adopted as it is already behind schedule. As such, we have elected to move this case forward under the context of the existing code while being mindful of the current Draft of the Airport Boulevard Form-Based Code.

The intent for the applications is to place an office use on the subject property and doing so in a manner that complies with the text of the existing Neighborhood Plan while complying to the Draft Airport Boulevard Form-Based Code to the extent that existing zoning codes are not conflicted.

Looking at a map of the area, the subject property is the last remaining property zoned as "SF-3" in area bounded by Airport Boulevard, E. 49-1/2 Street, Bennett Avenue, and an alley. The other properties in this "block" are zoned as "GR-V-CO-NP" and "GR-CO-NP", the latter which contains the business known as Tomlinson's Feed & Pets. The subject property of the rezoning

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and plan amendment applications is an extension of the business and landholdings of the Tomlinson's Feed & Pets business operations.

The North Loop Neighborhood Plan

The current NP, adopted May 23, 2002, provides for guidelines for the future development including a Future Land Use Map (FLUM) and Neighborhood Plan. The FLUM calls for the "block" as Mixed-use with the subject property as the exception which is designated as Single-Family. The request is to change the FLUM Land Use Designation from Single-Family to Mixed-use to align with the other properties in the "block". Several statements, Goals and Objectives from the NP support the change to Mixed-use. These are as follows:

Page 15 – Neighborhood Commercial – The neighborhood identified a preference for smaller, independent and 'Mom & Pop' type businesses rather than large big box retail or chain stores.

Tomlinson's Feed & Pet Store has been at this location since 1946 and is a family owned business. The expansion of this business with the abutting property is in keeping with the preference of these types of businesses.

Page 17 – Land Use Goals – Goal 1: Encourage compact and human scale land use – Objective 1.2: Promote commercial and residential infill that supports and enhances the character of the neighborhood.

Tomlinson's Feed & Pet Store is pursuing a commercial infill development expansion of the existing facility.

Page 18 – Goal 4: Encourage development of a diversity of neighborhood-oriented businesses. Objective 4.1: Promote zoning that allows for development of small scale, neighborhood oriented businesses.

Objective 4.2: Encourage a balanced and diverse mix of independently owned, neighborhood businesses including

Tomlinson's Feed & Pet Store is requesting a Plan Amendment and rezoning to continue the operation of a small scale, neighborhood oriented business. Additionally, Tomlinson's Feed & Pet Store is continuing to serve the neighborhood with an independently owned business.

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Page 19 – Goal 9: *Improve the Appearance and the maintenance of the neighborhood.*
Objective 9.3: Encourage high quality design and construction of human scale buildings that have an inviting and appealing street presentation.

Objective 9.4: Promote quality design for both residential and commercial development.

Tomlinson's Feed & Pet Store will adhere to the Draft Airport Boulevard Form-Based Code design guidelines to the extent that these do not conflict to current zoning development regulations.

Draft Airport Boulevard Form-Based Code

The current Draft for this Plan is not made available for public distribution. However, we have reviewed a draft document that is in possession with the City of Austin staff. This draft reflects that the subject property is proposed to be designated in the Neighborhood Transition Character Zone. This Neighborhood Transition Character Zone allows for small scale commercial development which includes Administrative and Business Office. The Draft Airport Boulevard Form-Based Code is a Form-Based code and includes design parameters that promote the placement of buildings to be closer to the street and parking behind. This is also a desire of the Neighborhood Plan. Tomlinson's Feed & Pet Store is proposing to comply with this exact style of development.

The Request for Mixed-use Land Use and "GR", Community Commercial Zoning

The intent, again, is to develop the property with an office use. With that comes the question of why the applications for Mixed-use Land Use and for "GR", Community Commercial zoning. The answers are:

- 1) Both of these requests round out the "block" for a cohesive land use and zoning pattern while not compromising the neighborhood.
- 2) Heritage Tree Preservation. There are two Heritage Trees on the property, both which are 25" Pecans. One of these Heritage Trees lies right in the middle of the property. The request for "GR" zoning is to provide for a 10' Building Setback along the Bennett Street frontage versus the 15' of "GO" or 25' of "LO" or "NO" zoning. To put the future building as close to the street as possible allows for preservation of the tree. Reducing the setback removes reasonable use of the property and warrants a removal of the tree, which is not desirous by the landowner, the neighborhood, City staff, the Planning Commission or the City Council.

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3) City policies do not allow for a case to be filed for a FLUM Amendment to Office Land Use and then file for "GR" zoning. The FLUM must be designated as either Commercial Land Use or Mixed-use Land Use for the subject property in order to attain "GR" zoning.

As you will find, the intent for the development of the subject property is directly in alignment with the text of the existing Neighborhood Plan and the future Draft Airport Boulevard Form-Based Code to the extent that the latter does not conflict with current zoning codes. Therefore, we respectfully request a positive recommendation from City staff and request that this item be carried forth to Planning Commission and City Council accordingly.

If you have any comments, concerns or questions, please contact me at my office.

Sincerely,

A. Ron Thrower

A. Ron Thrower

Patterson, Clark

From: Ron Thrower <~~Ron.T@throwerdesign.com~~>
Sent: Wednesday, May 08, 2013 7:19 AM
To: Meredith, Maureen; Patterson, Clark
Subject: FW: Tomlinson's Pet and Feed Store

C/O 19

Importance: High

Doris gave me permission to forward this.

Ron Thrower

Thrower Design

P.O. Box 41957
Austin, Texas 78704
512 / 476-4456

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From: Doris Coward [mailto:~~doris.coward@tomlinsonspetandfeed.com~~]
Sent: Tuesday, May 07, 2013 10:30 AM
To: Ron Thrower
Subject: Re: Tomlinson's Pet and Feed Store
Importance: High

Ron,
Thank you for sending this message to the Advisory Group. What you have applied for, and the reasons behind it, appear to me to be reasonable if the project adheres to a 10' setback, provides a front sidewalk, and saves the heritage trees.
Doris

On May 1, 2013, at 11:47 AM, Ron Thrower wrote:

Airport Advisory Group Members,

I am representing Tomlinson's Pet and Feed Store on a rezoning case located on Bennett Avenue and behind their existing facility which is located along 49-1/2 Street. Attached is a zoning map the outlines the property which shows the property zoned as "SF-3". The North Loop Neighborhood Plan Future Land Use Map has the property designated as Single Family. The Click's, who own Tomlinson's, purchased the property to build a small administrative office on the property for their use. Tomlinson's is "Austin" through and through and has been at their existing location for 40 years. They are expanding to New Braunfels and Round Rock which will make 9 stores for Tomlinson's. The proposed use for the new site, as office, is for Click's to have an office that meets the needs of their growing company.

We have applied for Mixed-use on a FLUM Amendment and rezoning to "GR" (Community Commercial) to match the abutting property. As you can note on the FLUM map, the entire 1/2 block (bounded by Airport, 49-1/2 Street, Bennett and an alley), other than this new property, is designated as Mixed-use. Additionally, the zoning map shows this entire 1/2 block to be zoned as "GR". While "GR" may seem intrusive into the neighborhood, there is reasoning outlined below and we have agreed to "LO" (Limited Office) uses.

C10
20

Attached are a conceptual site plan and building elevation for the proposed office. Note the trees on the property. The one in the middle is a heritage tree (pecan) and another heritage tree (pecan) is on the western end. "GR" zoning has a street setback of 10'. Whereas "LR" (Neighborhood Commercial), "LO" (Limited Office), & "NO", (Neighborhood Office) have 25' setbacks and "GO" (General Office) has a 15' setback. With "GR" zoning, the building can be pushed to the 10' setback providing for a reasonable building area of a size that meets the needs for Tomlinson's.

Which gets me to why I am writing the Airport Advisory Group. The draft Airport Regulating Plan is not in public hands yet, however, I have reviewed a copy at the city and did so prior to applying for this rezoning. This property which we are seeking a change to commercial is currently designated as Neighborhood Transition. I have tailored the request for "GR" zoning with "LO" uses to align exactly with the draft Airport Regulating Plan. Neighborhood Transition is proposed to contain the same commercial uses as "LO" zoning and is also to have a minimum of 5' setback and a maximum of 15' setback at the street. As such, the development will comply with the new Airport Code when it is adopted.

I want you all to be aware that I am representing a client for a rezoning of a property inside the Airport Corridor boundary, and, also want you to be aware that what is sought is in direct alignment with the proposed Airport Regulating Plan for the area. Tomlinson's can't wait for the Airport Plan to come to fruition. They are a locally owned, growing company and need to keep on track for their business needs.

This case is moving forward to Planning Commission on May 14th. If you have any questions, please do not hesitate to contact me through email or phone. Jorge Rousselin is copied in this email and can answer any questions relating to the Draft Airport Regulating Plan.

If you feel compelled to write in favor or opposed to this request, I encourage you to do so. Please send to Jorge directly, but copy me on the correspondence. Thank you for your time.

Ron Thrower

Thrower Design

P.O. Box 41957
Austin, Texas 78704
512 / 476-4456

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<NPA-2013-0011.02_Zng Map.pdf><NPA-2013-0011.02_BW FLUM.PDF><Tomlinsons-Elevation rendering-small.pdf><Tomlinsons-Site rendering-small.pdf>

C10
21

Patterson, Clark

From: Ron Thrower <Ron.Thrower@sigma.com>
Sent: Monday, May 13, 2013 12:08 PM
To: Anderson, Dave - BC; Nortey, James - BC; Roark, Brian - BC; Hernandez, Alfonso - BC; Oliver, Stephen - BC; Stevens, Jean - BC; Chimenti, Danette - BC; Smith, Myron - BC; mnrgatfield@yahoo.com
Cc: Meredith, Maureen; Patterson, Clark; Rousselin, Jorge
Subject: FW: Tomlinson's Pet and Feed Store
Attachments: 13-0401 ltr to Guernsey.pdf; Tomlinsons Rendering COMBINED.pdf; NLNPT Tomlinsons Letter.docx; 2013-05-10_ABFBC_Thrower_Case_Responses.pdf

Importance: High

Commissioners,

All Commissioners are copied herein, please exercise caution to not reply all to this email.

For whatever reason the below email and attached items were not included in the backup material. These items are very relevant to the reasoning for the case and staff did not include these items in the backup material. The below will show exactly that we have been responsive to the neighborhood concerns though they have not contacted us directly since the Ridgeway NA Meeting on April 18.

Additional materials that are very relevant to this case is the attached support letter from the North Loop Neighborhood Plan Team and Jorge Rousselin's response to some questions I asked regarding the DRAFT Airport Regulating Plan.

Given the fact that you have not been provided all materials associated with this case, then I can see how a postponement may have warrants. HOWEVER, given the fact that we have met with the neighborhood on three occasions, and have been responsive to the concerns that have been forwarded to us indirectly, if a postponement is granted, I respectfully request that the postponement be no later than May 28th.

Ron Thrower

Thrower Design

P.O. Box 41957
Austin, Texas 78704
512 / 476-4456

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From: Ron Thrower
Sent: Thursday, May 02, 2013 1:56 PM
To: 'Rousselin, Jorge'; Penelope Doherty
Cc: Scott Richardson; Beth Kubacka; ruth kubacka; Megan Gilbride; Andrew Bell; Rob Downey; Patricia Borowicz; Bojo, Leah; Patterson, Clark
Subject: RE: Tomlinson's Pet and Feed Store

Penelope,

The communication below that I provided to the Airport Advisory Group Members was to inform them that I, as an Advisory Group Member myself, was representing a landowner for a change to current zoning and that the property lies

09/22

within the boundary of the Airport Corridor Plan. Further, the email was to reflect just as we have always portrayed the intentions and why. If Advisory Group Members want to weigh-in positively or negatively, that is their choice, just as it is your choice. My intentions were to inform them of what was going on, why, and what the issues are that are associated with this site. I'm hopeful that anyone reading the email can use it in their endeavors of trying to move the Form-based Code forward insofar that what is proposed is not intended to compromise the work that has been done to date on the Airport Corridor Regulating Plan. What was provided to the Airport Advisory Group Members is exactly what was provided to RNA meeting, City staff, the City sponsored Neighborhood Plan meeting, and the North Loop Planning Contact Team meeting.

After the RNA meeting, we left with the understanding that RNA was to forward us, in writing, any comments, concerns or questions associated with FLUM Amendment and rezoning cases. I have not received anything from RNA other than what was forwarded to me Tuesday by Maureen and yesterday by Jorge. As it was a draft, I am unsure to whom it is directed as the salutation is missing. The areas of concern listed in that letter have mostly already been addressed in the meetings. For clarity of the bulleted items in the letter:

- GR zoning is too aggressive – Answer – GR zoning is the only district that has a 10' setback. We are not asking for GR zoning and the 60 or so commercial uses that go with it. We are asking for "LO" uses which has 5 commercial uses allowed. The perceived aggression of GR is muted by the voluntary limitations of uses.
- Building size seems unnecessarily big for stated use – Answer – The Click's want to use this for their office area and meeting area as well as kitchen facilities and server room. They are a locally owned and growing operation. Given the context of the 4,400 s.f. that is allowed by residential use, the single-story office use is a little over ½ of this.
- Requested 10' setback is too close to the road in this location – Answer – We may have to disagree on this. But if 10' is too close then what is not too close? If the tree stays (which it is) then 10' is needed at the street.
- Commercial security mitigations can be unfriendly to nearby houses – Answer – Passive controls in the form of lighting with motion sensors are available to commercial and residential property owners. I'm not sure what else would be available for commercial businesses that would be unfriendly. Please advise.
- Concerns about eventual undesirable aggregate use of entire property if upzoned to "GR" – Answer – The zoning districts and their overlays will stand alone. With the proposed GR zoning with LO uses does not mean that this property can have an automobile repair facility (for instance) on it just by assemblage.
- Would applicants accept a height restriction over both the lots that touch Bennett? – Answer – The only property with a zoning case is the one lot. The other property does not have a zoning case going forward. That said, the subject lot is hit by compatibility standards that will limit the height to 2 stories for a majority of the property. There is a narrow sliver that could reach three stories but that is unlikely to impossible due to the constructability.
- Why was a restrictive covenant taken off the table by a contact team member – Answer – the ensuing discussion was clear on the reasoning – "This is Tomlinson's. If we can't trust the small business that has been in the neighborhood, then who can we trust?" Or something like that. Ask Sebastian for clarification.
- What stops them from applying to remove the tree anyway? – Answer – It is a heritage tree. Read the ordinance and call the arborist if there are any questions. We could apply, but that would be a waste of time, money and energy. Why? Because the ordinance is clear - this would go to a public hearing and not one heritage tree removal permits has been granted through that process. Just a month ago a heritage tree removal permit was denied in the West Campus area where the ugliest pecan tree in Austin was right in the middle of a lot that was designated by code to have underground parking and 175' in height for student housing. PC denied the variance.
- If this stretch of Bennett is to have no residential, some family friendly accommodations or features are needed: more setback, sidewalks and landscaping along both lots, pedestrian lighting. – Answer – This stretch of Bennett has not had single family for a while. However, with the commercial zoning and subsequent required site plan, sidewalks are a requirement to be installed. Same for landscaping. Pedestrian lighting is a Public Works issue. However, there is a street light at the intersection with 49-1/2 Street and Bennett and another at Bennett and the alley abutting this property.
- The consensus that Harmon Triangle worked so hard to develop should not be undermined. Find some way to honor the spirit of the consensus. Answer – I suspect that this is intended for staff? If not my answer would be

019/23

that we are honoring a lot of overlapping issues with this proposal all the while in keeping with the Draft Airport Corridor Regulating Plan.

- Ask them to wait for the FBC process. – Answer – The Click's participated in the Airport Corridor Process. They are aware of the process and even more aware of the delays associated with this ongoing process. Tomlinson's is a growing business and they are trying to accommodate the needs of that business. And doing this in a way that is non-intrusive as possible and in keeping with the Neighborhood Plan and Draft Airport Regulating Plan.

The crux of the letter is that a postponement to wait for FBC is in place. Tomlinson's respectfully cannot agree to such a request. The email sent to City staff indicated a "no support" position and "no movement forward" position. I respectfully must move this case forward. Tomlinson's is a small Mom & Pop business. This is the exact type of business that Austin claims to want to keep and provide opportunities to have that business grow while maintain the Mom & Pop operational characteristics. And this is exactly the type of business that does not have the corporate fortitude to wait for long periods.

If you have any additional comments, concerns or questions, please forward them to me and I'll be responsive to your requests.

Ron Thrower

Thrower Design

P.O. Box 41957
Austin, Texas 78704
512 / 476-4456

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From: Rousselin, Jorge [<mailto:Jorge.Rousselin@austintexas.gov>]

Sent: Thursday, May 02, 2013 12:42 PM

To: Penelope Doherty

Cc: Scott Richardson; Beth Kubacka; ruth kubacka; Megan Gilbride; Andrew Bell; Rob Downey; Patricia Borowicz; Bojo, Leah; Ron Thrower; Patterson, Clark

Subject: RE: Tomlinson's Pet and Feed Store

Penelope,

We'll take every step necessary to keep the community involved and informed. As we had discussed at a previous meeting, it's not unusual for rezoning cases to come forward when a plan, or in this case, a Form-based Code is in process. This happens often when a neighborhood plan is in progress also and there is no vehicle Staff has to prevent the rezoning case to be filed – that is a right every property owner has at his/her disposal. While we (Staff) cannot prevent a rezoning case to be filed – and in turn to be processed, careful consideration is given to each recommendation including consideration of factors such as the form-based code. Once the staff report is complete I'll ask Clark for a copy to pass along so you and other community members have the same information Planning Commissioners will have when the case goes before them for the public hearing.

Let me know if I can be of further assistance.

Jorge

From: Penelope Doherty [<mailto:penelope.doherty@cityofaustin.org>]

Sent: Wednesday, May 01, 2013 10:12 PM

To: Rousselin, Jorge

Cc: Scott Richardson; Beth Kubacka; ruth kubacka; Megan Gilbride; Andrew Bell; Rob Downey; Patricia Borowicz; Bojo,

C10/25

I am representing Tomlinson's Pet and Feed Store on a rezoning case located on Bennett Avenue and behind their existing facility which is located along 49-1/2 Street. Attached is a zoning map the outlines the property which shows the property zoned as "SF-3". The North Loop Neighborhood Plan Future Land Use Map has the property designated as Single Family. The Click's, who own Tomlinson's, purchased the property to build a small administrative office on the property for their use. Tomlinson's is "Austin" through and through and has been at their existing location for 40 years. They are expanding to New Braunfels and Round Rock which will make 9 stores for Tomlinson's. The proposed use for the new site, as office, is for Click's to have an office that meets the needs of their growing company.

We have applied for Mixed-use on a FLUM Amendment and rezoning to "GR" (Community Commercial) to match the abutting property. As you can note on the FLUM map, the entire 1/2 block (bounded by Airport, 49-1/2 Street, Bennett and an alley), other than this new property, is designated as Mixed-use. Additionally, the zoning map shows this entire 1/2 block to be zoned as "GR". While "GR" may seem intrusive into the neighborhood, there is reasoning outlined below and we have agreed to "LO" (Limited Office) uses.

Attached are a conceptual site plan and building elevation for the proposed office. Note the trees on the property. The one in the middle is a heritage tree (pecan) and another heritage tree (pecan) is on the western end. "GR" zoning has a street setback of 10'. Whereas "LR" (Neighborhood Commercial), "LO" (Limited Office), & "NO", (Neighborhood Office) have 25' setbacks and "GO" (General Office) has a 15' setback. With "GR" zoning, the building can be pushed to the 10' setback providing for a reasonable building area of a size that meets the needs for Tomlinson's.

Which gets me to why I am writing the Airport Advisory Group. The draft Airport Regulating Plan is not in public hands yet, however, I have reviewed a copy at the city and did so prior to applying for this rezoning. This property which we are seeking a change to commercial is currently designated as Neighborhood Transition. I have tailored the request for "GR" zoning with "LO" uses to align exactly with the draft Airport Regulating Plan. Neighborhood Transition is proposed to contain the same commercial uses as "LO" zoning and is also to have a minimum of 5' setback and a maximum of 15' setback at the street. As such, the development will comply with the new Airport Code when it is adopted.

I want you all to be aware that I am representing a client for a rezoning of a property inside the Airport Corridor boundary, and, also want you to be aware that what is sought is in direct alignment with the proposed Airport Regulating Plan for the area. Tomlinson's can't wait for the Airport Plan to come to fruition. They are a locally owned, growing company and need to keep on track for their business needs.

This case is moving forward to Planning Commission on May 14th. If you have any questions, please do not hesitate to contact me through email or phone. Jorge Rousselin is copied in this email and can answer any questions relating to the Draft Airport Regulating Plan.

If you feel compelled to write in favor or opposed to this request, I encourage you to do so. Please send to Jorge directly, but copy me on the correspondence. Thank you for your time.

Ron Thrower

Thrower Design

P.O. Box 41957

C10/26

Patterson, Clark

From: Ron Thrower <~~Ron.T.Thrower@throwerdesign.com~~>
Sent: Monday, May 20, 2013 8:55 AM
To: Patterson, Clark; Meredith, Maureen; Rousselin, Jorge
Subject: FW: Summary of neighborhood comments

FYI

Ron Thrower

Thrower Design

P.O. Box 41957
Austin, Texas 78704
512 / 476-4456

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From: Ron Thrower
Sent: Saturday, May 18, 2013 5:44 PM
To: Megan Gilbride
Subject: Re: Summary of neighborhood comments

Megan,

Thank you for putting this together. I have shared this with the Click's and we have had some discussions. Given the context of this email, perhaps it is best to postpone the zoning case until Airport Form Based Code is adopted. That way GR is not on a map for this property and the Click's can work within the context of the future Form Based Code and wait for the adoption. It is not the intent of the Click's to be the center of ill will with the neighborhood. They have been there a long time, perhaps longer than most people in the neighborhood, and they want to be there a long time in the future.

As such, on May 28th, we will seek a postponement for a period of 6 months and move forward accordingly from there. There is not any need to have a meeting at this time. Frankly, it was turning out to be a very time consuming time for the Click's for the next two months. They would have preferred finalization of the zoning in early summer in order to have a higher level of assurance moving forward with their site plan which takes about 6 months to get an approval.

Again, thanks for this list of issues.

Ron Thrower
Thrower Design
iPad Bound

On May 18, 2013, at 12:02 PM, "Megan Gilbride" <~~Megan.Gilbride@cityofaustin.org~~> wrote:

Hi Ron,

Here's a summary of comments we've received from neighbors via email, the yahoo group, nextdoor, etc.

C10/27

In trying to compile this list so it can be helpful for our meeting, it became clear that the bulk of neighbor response is focused on two key points. I think there will be details to discuss inside of these issues -- as this is a summary and individual concerns vary person to person -- but below are the two that have been voiced by a number of neighbors.

No new commercial in the transition zone.

I must share with you the general resistance to the request, in any form, based on our neighborhood's previous work crafting the FBC vision of Harmon Triangle with the city. Many neighbors cite the precedent that no new commercial development should be in the transition zone -- period. I've gotten the sense that the Clicks are surprised by negative neighbor response to the project, meanwhile the plan amendment request is contrary to the existing record of what the neighborhood, in conjunction with the city, has envisioned for the parcel. I hope you will all greatly consider this context for the discussion. I really can't stress it enough.

GR is not appropriate zoning for the parcel or the proposed site plan

You and the Clicks have stressed that the site plan and use are LO, excepting the setback variance needed to build the office amongst the protected heritage trees on the property. So the neighbors want to know why you're continuing to pursue the GR plan amendment request if it's solely to achieve the frontyard minimum setback regulation you'd like. Neighbors aren't comfortable with the regulations or the precedent of GR, regardless of the use and the applicant, and city staff isn't recommending GR be approved. Based on the site plan you've provided it seems there are other options. In the initial 4/15 community meeting and the 4/18 RNA meeting you attended, this point was expressed by many neighbors including myself. It continues to be a concern for the neighborhood.

The Harmon Triangle sector of the Ridgetop Neighborhood Association is a group that is engaged, works well together, and has proven to be reasonable, especially when approached directly and in advance for input and support. With less than a month between the initial community meeting and the planning commission meeting, and no prior discussion or approach about the project -- and with a rezoning request so outside the existing vision for the neighborhood -- it's no surprise to me that much discussion is still needed. I'm glad we're finally going to have it.

That said Ron, it's taken a lot of work just to get you guys to a meeting. The neighbors are going to attend in the spirit of collaboration, to figure out what we can live with. We really need to see the same spirit from you. I think there's an opportunity for your project to go forward with our support. I'm hopeful that you understand why you don't have it now and what might be done to close the gap.

Best,
Megan

Patterson, Clark

C10/28

From: Austintaste <[REDACTED]>
Sent: Tuesday, May 14, 2013 11:44 AM
To: Meredith, Maureen; Patterson, Clark; Rousselin, Jorge
Subject: Re: Plan Amendment Case NPA-2013-0011.02; Zoning Case C14-2013-0021 – 4914 Bennett Ave.

As I am not able to attend tonight's meeting in person, please utilize this email as my endorsement of the City of Austin's desire and plan for form based code criteria already in the late stages of development, to be applied in this request by Thomlinsons on the Bennett property. Many people have worked in concert to develop acceptable standards for that portion of Bennett and I whole heartedly support those standards and do not support any rezoning requests outside of those guidelines.

Please also remain alert for feedback from property owners (like myself) who are in an enhanced class (within 500 feet of the property) as many other non-enhanced class peoples are creating an aggressive and bullying atmosphere.

I support your continued and good efforts as a group to bring forward those form based code details that all have developed together (city and residents.) if pressing needs prevent any parties from being unwilling to await the FBC from being adopted in 2014, light office with variances for trees and setbacks on the above property would seem to be satisfactory to the applicant's expressed desire for the property, but it's not my first preference.

Penelope and Megan will be attending tonight and also have my support and confidence to speak on my behalf.

Thank you for continuing to work through this process. I appreciate all of the help you have been providing.

Lisa Daugustine
928 e 49 1/2 st.
78751



C10/29

May 21, 2013

Planning and Development Review Department, City of Austin
Clark Patterson, Zoning Planner

Re: Plan Amendment Case NPA-2013-0011.02; Zoning Case C14-2013-0021 – 4914 Bennett Ave.

Dear Clark:

We are happy to update the Planning Commission and City staff with our progress in the above-referenced cases. As I communicated by phone yesterday, on Saturday evening we were notified by Ron Thrower that the Clicks have determined it is best to postpone their applications in favor of the adoption of form-based code. This was welcome news to the neighbors, as you can imagine -- while we had set up a meeting, it was a very compressed timeframe in which to find a comfortable solution.

Megan Gilbride did some heroic work last week communicating with Mr. Thrower, pursuing a meeting, and providing accurate and thorough context to the Clicks reiterating the neighbors' concerns, beginning Tuesday night and continuing daily until the above decision was made. We include the final email chain below -- please provide this to the Commission as appropriate, as we believe it sets valuable context for our neighborhood's participation moving forward. We are providing it to Mr. Riley's staff for the same reason.

We plan to attend on May 28 for the postponement item. Please don't hesitate to contact us if there are questions.

Respectfully,

Penelope Doherty, RNA President and **Scott Richardson**, RNA Executive VP
914 E. 49th St 922 E. 49th St

Cc:
Maureen Meredith, Plan Amendment Planner
Jorge Rousselin, Urban Design, COA Planning and Development Review
Leah Bojo, Policy Specialist for Councilmember Chris Riley

RNA to C. Patterson, 5/21/13
p. 2

C10/30

From: [REDACTED]
To: ront@throwerdesign.com; scottrichardson@grandecom.net; mg@megangilbride.com
Subject: RE: Summary of neighborhood comments
Date: Sat, 18 May 2013 22:29:31 -0500

Ron, thanks for forwarding -- poor Megan has been on a plane most of today (in fact may still be!), so was unable to.

This is good news, as we are also sincerely committed to avoiding ill will. We'll take steps to cancel the meeting and let folks know that the Clicks are looking forward -- as are we -- to positive discussions on how we can all support our goals together. I should say more now, but it's late. I at least wanted you to know we'd seen this. I'll post on Yahoo group in the morning in keeping with your message below.

Thank you for your hard work this week with Megan, and please give our best to the Clicks.

See you on the 28th, and don't hesitate to contact any of us in the meantime if needed.
P

Subject: Fwd: Summary of neighborhood comments
From: RonT@throwerdesign.com
Date: Sat, 18 May 2013 19:40:54 -0500
To: dohertyc@hotmail.com; scottrichardson@grandecom.net; mg@megangilbride.com

Penelope,

See email below. Let me know if you have any questions or comments.

Ron Thrower
Thrower Design
iPad Bound

Begin forwarded message:

From: "Ron Thrower" <RonT@throwerdesign.com>
Date: May 18, 2013 5:43:43 PM CDT
To: "Megan Gilbride" <[REDACTED]>
Subject: Re: Summary of neighborhood comments

Megan,

Thank you for putting this together. I have shared this with the Click's and we have had some discussions. Given the context of this email, perhaps it is best to postpone the zoning case until Airport Form Based Code is adopted. That way GR is not on a map for this property and the Click's can work within the context of the future Form Based Code and wait for the adoption. It is not the intent of the Click's to be the center of ill will with the neighborhood. They have been there a long time, perhaps longer than most people in the neighborhood, and they want to be there a long time in the future.

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RNA to C. Patterson, 5/21/13
p. 3

C10
31

Click's for the next two months. They would have preferred finalization of the zoning in early summer in order to have a higher level of assurance moving forward with their site plan which takes about 6 months to get an approval.

Again, thanks for this list of issues.

Ron Thrower
Thrower Design
iPad Bound

On May 18, 2013, at 12:02 PM, "Megan Gilbride" <mg@megangilbride.com> wrote:

Hi Ron,

Here's a summary of comments we've received from neighbors via email, the yahoo group, nextdoor, etc.

In trying to compile this list so it can be helpful for our meeting, it became clear that the bulk of neighbor response is focused on two key points. I think there will be details to discuss inside of these issues -- as this is a summary and individual concerns vary person to person -- but below are the two that have been voiced by a number of neighbors.

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That said Ron, it's taken a lot of work just to get you guys to a meeting. The neighbors are going to attend in the spirit of collaboration, to figure out what we can live with. We really need to see the same spirit from you. I think there's an opportunity for your project to go forward with our support. I'm hopeful that you understand why you don't have it now and what might be done to close the gap.

Best,
Megan



C10
32

TO: Dave Anderson, Chair
Members of the Planning Commission

FROM: Keith Mars, City Arborist Program
Planning and Development Review Department

DATE: November 1, 2013

SUBJECT: Heritage Tree at 4914 Bennett Avenue

At the request of the applicant, Ron Thrower, on November 4, 2013, I performed an assessment of regulated trees located at 4914 Bennett Avenue. The purpose of my involvement was to determine permissible development impacts to the trees based on existing and requested setback requirements.

Due to inaccessibility of the property (wooden fence enclosing the perimeter), a limited visual assessment was performed suggesting at least four protected or heritage trees occur on the property. It is my understanding from the applicant that only one Pecan is a concern for development related impacts or removal. The subject Pecan (*Carya illinoensis*) diameter could not be confirmed, but the applicant has stated it is greater than 24" in diameter, thus recognized as a heritage tree per the Land Development Code. Absent biological or structural defects that would render the tree diseased or an imminent hazard, the subject tree should be preserved in forthcoming development.

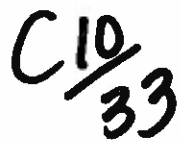
The conceptual plans (see attachments), based on a 10' rather than a 25' front-yard setback, are compliant with critical root zone impacts. Conversely, with current setback requirements it appears non-code compliant impacts or outright removal would likely occur. Canopy pruning regulations must also be met, but cannot be reviewed until building elevations are known. However, it is expected that pruning will not exceed the allowable 25 percent. It is also expected the other regulated trees onsite will be preserved. If you have questions or need further details, please contact me at 512-974-2755 or keith.mars@austintexas.gov.

Regards,

Keith Mars, Environmental Program Coordinator
City of Austin Arborist Program
Planning and Development Review Department

718-265-1502

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(2) R.O.W. DEDICATION PER PLAT V. 51 PG 85)

Paul Utterback, RALES No. 5736
Client: Terrellman & Ford & Potts, Inc
Date of Filing: 03/07/2003

Yacht Information
 Date Drawn: 01/07/2001

Path: Projects/BLUK/Donnell+4914/Production/Donnell+4914/Donnell+4914.dwg

- 1) The map and the survey on which it is based have been prepared without the benefit of a GIS report and are not intended to reflect all easements, encroachments or other circumstances affecting the title to the property shown herein.
- 2) Building setback lines are per the current City of Austin Zoning Ordinance (Zoning SF-3 per City of Austin Development Web Map)

I, Paul W. URBACH, KOREN CENTER, a survey was made on the ground of the property shown herein, that there are no visible discrepancies, conflicts, shortages or mis, boundary line conflict, encroachments, easements of neighbors, easements or rights-of-way, except as shown. It is hereby acknowledged by me that this act is an accurate representation of the property to the best of my knowledge.

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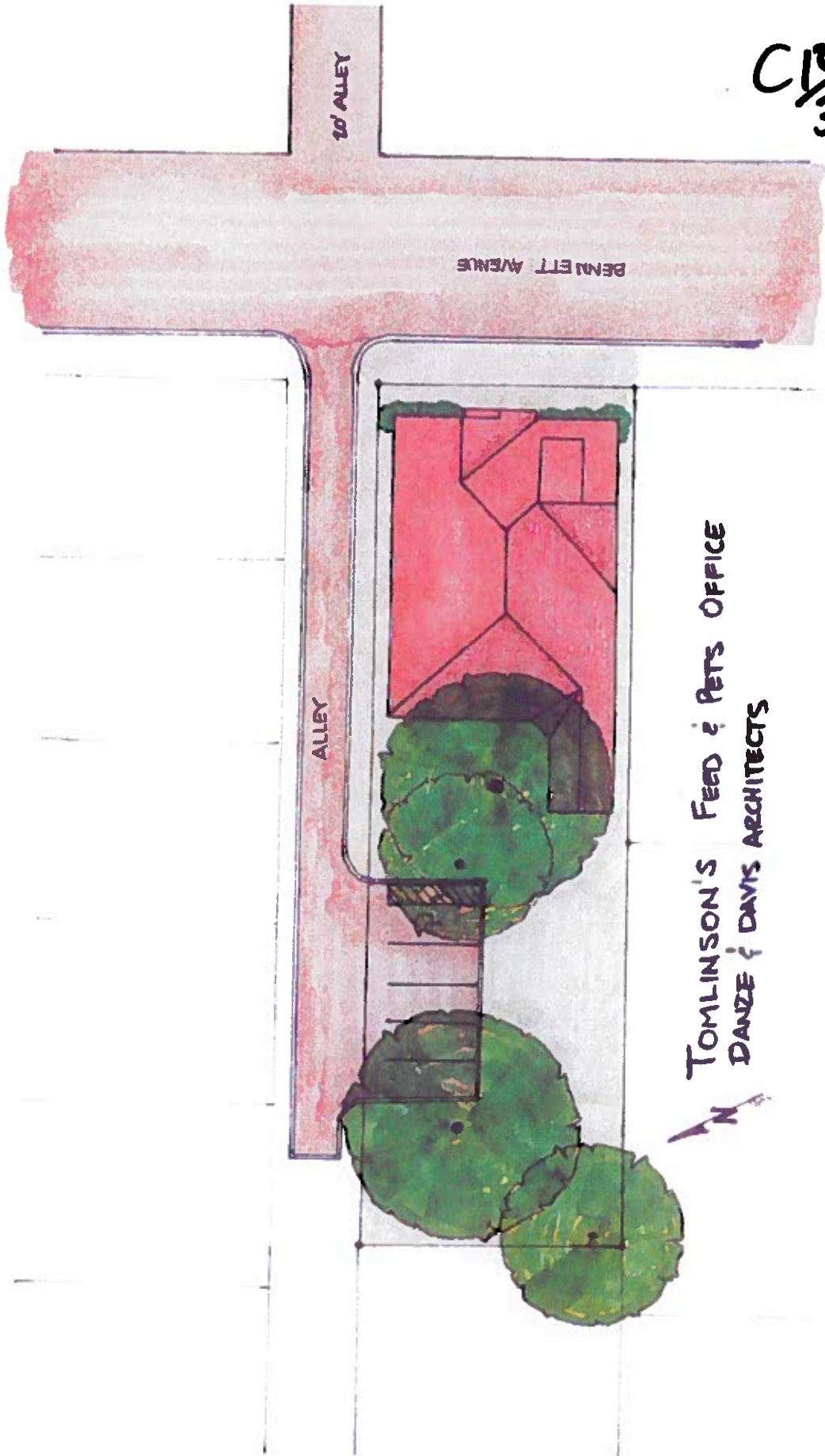
Paul Utterback, RP4S No. 5736

Date of Plant Work: 03/07/2003

[illegible]

Date Drawn: 03/07/2013
 Petch: Projects/BLUX/DocumentA-4914/Pr

C10/34



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