

## THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2013-0048 Westlake Rezoning

REQUEST: Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code rezoning the property locally known as 3715 Westlake Drive (Lake Austin Watershed) from Lake Austin (LA) district zoning to Single Family Residential, Standard Lot (SF-2) combining district zoning.

DEPARTMENT COMMENTS:

The conditions imposed by City Council on First and Second Reading have been incorporated into the ordinance and attachments.

APPLICANT: John Mayes

AGENT: Permit Partners, L.L.C. (David Cancialosi)

DATE OF FIRST READING: August 22<sup>nd</sup>, 2013, Approved SF-2 district zoning on First Reading (6-1) Council Member Tovo voted nay.

DATE OF SECOND READING: September 26<sup>th</sup>, 2013, Approved SF-2-CO combining district zoning on Second Reading (7-0).

CITY COUNCIL HEARING DATE: June 27<sup>th</sup>, 2013 – Postponed to August 8<sup>th</sup> by the staff  
August 8<sup>th</sup>, 2013 – Postponed to August 22<sup>nd</sup> by the Staff.  
August 22<sup>nd</sup>, 2013 – Postponed to August 29<sup>th</sup>, by the Applicant.  
August 29<sup>th</sup>, 2013 – Postponed to September 26<sup>th</sup>, by Council.  
September 26<sup>th</sup>, 2013 – Approved Second reading.

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Clark Patterson

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2013-0048 Westlake Zoning

**Z. P. C. DATE:** 06-04-13

**ADDRESS:** 3715 Westlake Drive

**AREA:** 0.623 acres Tract 1  
0.638 acres Tract 2

**APPLICANT:** John Mayes

**AGENT:** Permit Partners, L.L.C.  
(David Cancialosi)

**NEIGHBORHOOD PLAN AREA:** N/A

**CAPITOL VIEW:** No

**T.I.A.:** No

**HILL COUNTRY ROADWAY:** No

**WATERSHED:** Lake Austin

**DESIRED DEVELOPMENT ZONE:** No

**ZONING FROM:** LA – Lake Austin Residence

**ZONING TO:** SF-2 - Single Family Residential, Standard Lot

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends approval of SF-2, Single Family Residential, Standard Lot zoning.

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

The motion to deny staff's recommendation for SF-2 district zoning, was made by Commissioner Rahm McDaniel, Commissioner Patricia Seeger seconded the motion on a vote of 3-3; Commissioners Sean Compton, Betty Baker and Cynthia Banks voted against the motion (nay), Commissioner Gabriel Rojas was absent. MOTION FAILED.

No action taken, forward to City Council with no recommendation from the commission.

### **DEPARTMENT COMMENTS:**

The lot is currently developed with a single family residence constructed in 1977. This lot was platted as part of the Lake Shore Addition Subdivision and the plat was recorded at the Travis County Courthouse in 1915. The average lot size for all of the lots in the Lake Shore Addition subdivision is 30,000 square feet, approximately 13,560 square feet short of the minimum one acre, or 43,560 square feet of land needed to comply with the Lake Austin Residence (LA) zoning designation. In 1983, the City initiated the Lake Austin Area Study under case number C14-83-003. The Lake Austin Area Study included over 270 properties and gave these properties the opportunity to adjust their interim and/or permanent zoning to either Lake Austin Residence (LA), Single Family Residence, Standard Lot (SF-2) or Single Family Residence (SF-3). This property was not included in the study. The subject property, tract 1 contains 0.71 acres or 31,290 square feet of land, 12,270 square feet short of the minimum needed to comply with the Lake Austin Residence (LA) zoning designation and tract 2 contains 0.51 acres or 25,250 square feet of land, 18,310 square feet short of the minimum needed to comply with the Lake Austin Residence (LA) zoning designation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
Site	LA	Single Family Residential
North	LA	Single Family Residential
South	LA	Single Family Residential
East	LA	Lake Austin
West	LA	Undeveloped

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-91-0064 2301 Big Horn Drive	From LA to SF-2	Approved SF-2. Vote: (7-0)	Approved SF-2. Vote: (7-0)

**BASIS FOR RECOMMENDATION:**

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

Granting SF-2 zoning for the subject tract will be compatible with adjacent uses and adjacent zoning in the area to the north and west.

**NEIGHBORHOOD ORGANIZATION:**

- The Island on West Lake Neigh. Assoc.
- Austin Neighborhoods Council
- Lake Austin Collective

**SCHOOLS:**

- Bridge Point Elementary School
- West Ridge Middle School
- West Lake High School

**TRANSPORTATION:**

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

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Westlake	70	24	MNR 2	No	No	Yes

**SITE PLAN:**

No site plan is required for single-family use.

A site plan is required for a boat dock or shoreline improvements.

**ENVIRONMENTAL:**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Lake Austin Watershed of the Colorado River Basin, and is classified as a Water Supply Rural Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone. Under the current watershed regulations, 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>	<i>Allowable Density</i>
One or Two Family Residential	n/a	n/a	1 unit/2 acres net site area
Multifamily Residential	20%	25%	n/a
Commercial	20%	25%	n/a

2. Single family or duplex development within a Water Quality Transition Zone may not exceed a density of one unit per three acres, exclusive of land within a 100-year floodplain, and must have a minimum lot size of 2 acres.
3. According to floodplain maps there is a floodplain within close proximity of the project location. Based upon the close proximity of the floodplain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone shall be limited to 18%.
4. The site is not located within the endangered species survey area.
5. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
6. 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.
7. 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.

## **COMPREHENSIVE PLAN:**

LA (Lake Austin) to SF-2 (Single Family Residence – Standard Lot). This zoning case is located along the eastern shore of Lake Austin, is vacant and is approximately 0.432 acres in size. The property is not located within the boundaries of a neighborhood planning area. Surrounding land uses includes single family houses to the north, south, and east. The Imagine Austin Comprehensive Plan (IACP) Growth Concept Map 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. Page 107 of the Imagine Austin Comprehensive Plan discusses how 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. This intent of these concepts can be found in the following IACP policies:

- **LUT P3.** Promote development in compact centers, communities, or along corridors that are connected by roads and transit that are designed to encourage walking and bicycling, and reduce health care, housing and transportation costs.
- **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.

Although *Imagine Austin* is largely supportive of the proposed land use, the proposed residential zoning designation would not offer the same environmental protections that the existing LA zoning designation requires, including the percentage of property that should be left in its natural state and calculation the impervious surface coverage based on gradients.

Based on the property being surrounded by other residential uses, and the Growth Concept Map and the IACP policies referenced above that supports a variety of housing types throughout Austin , staff believes that the proposed residential use is consistent with the Imagine Austin Comprehensive Plan as long as environmental ordinances are considered and enforced.

**CITY COUNCIL DATE:** June 27<sup>th</sup>, 2013  
August 8<sup>th</sup>, 2013

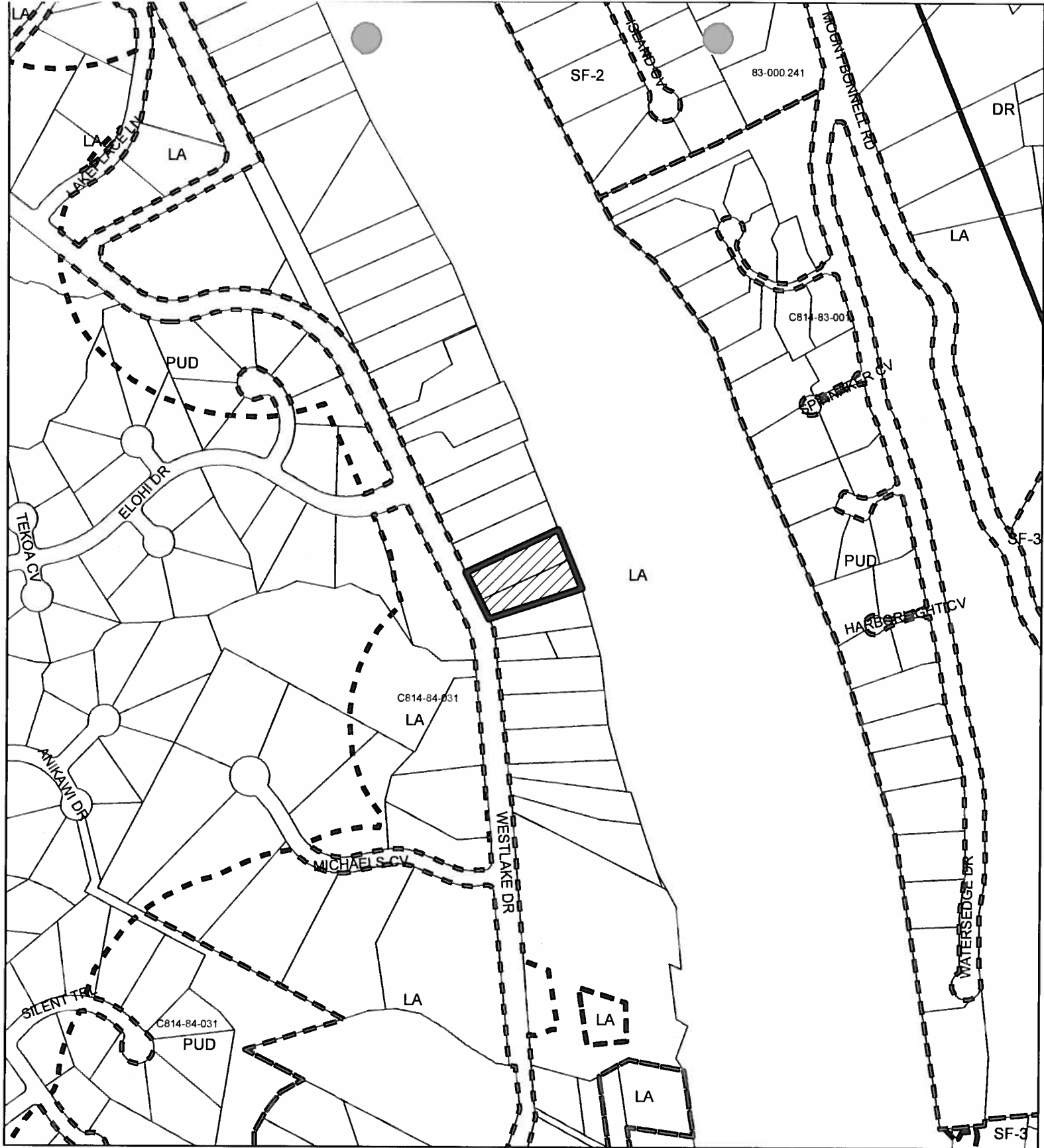
**ACTION:** Postponed to August 8<sup>th</sup>, staff  
Postponed to August 22<sup>nd</sup>, staff

**ORDINANCE READINGS:** 1ST                      2ND                      3RD                      **ORDINANCE NUMBER:**

**CASE MANAGER:** Clark Patterson

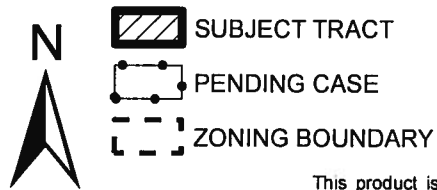
**PHONE:** 974-7691

**Clark.patterson@ci.austin.tx.us**



# **ZONING**

**ZONING CASE#: C14-2013-0048**



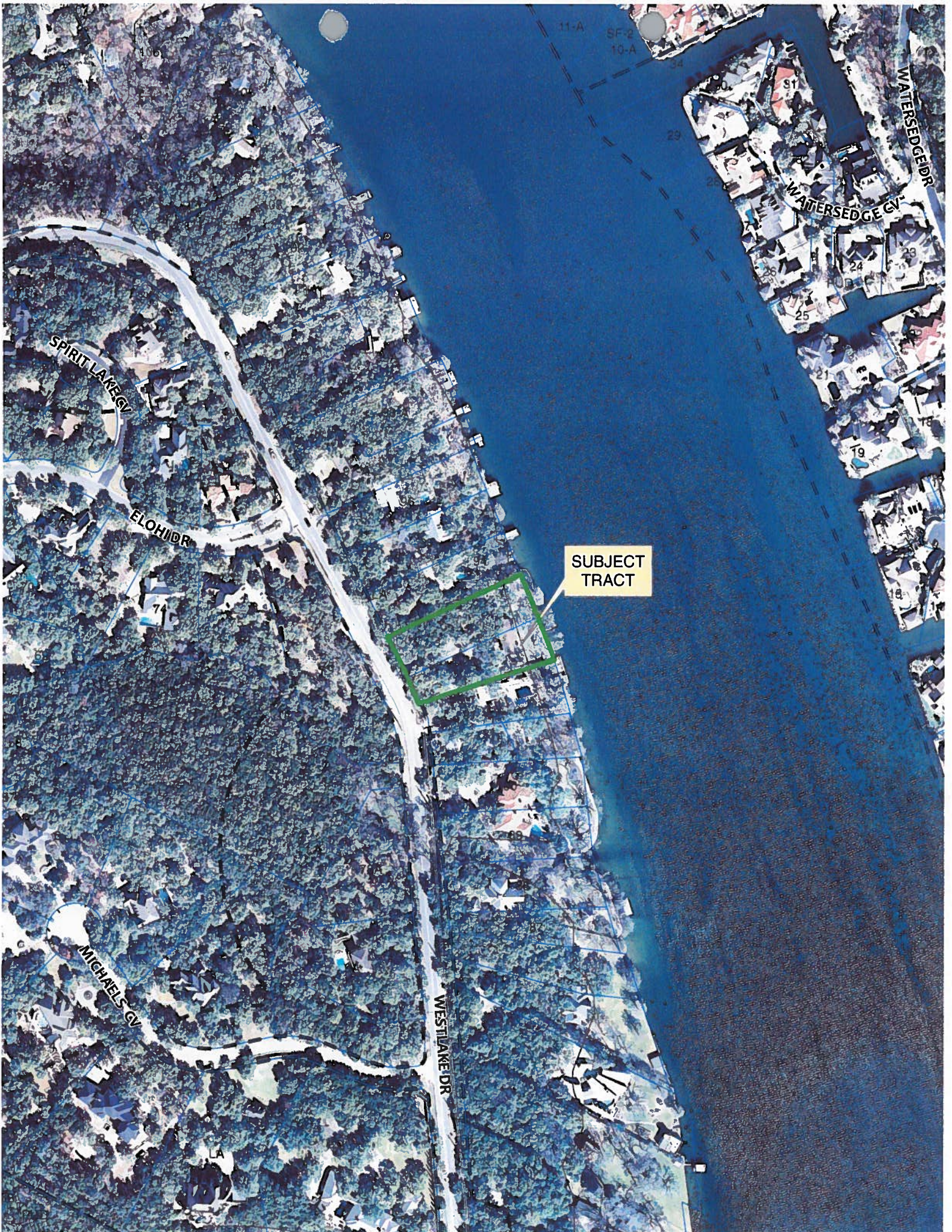
1" = 400'

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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

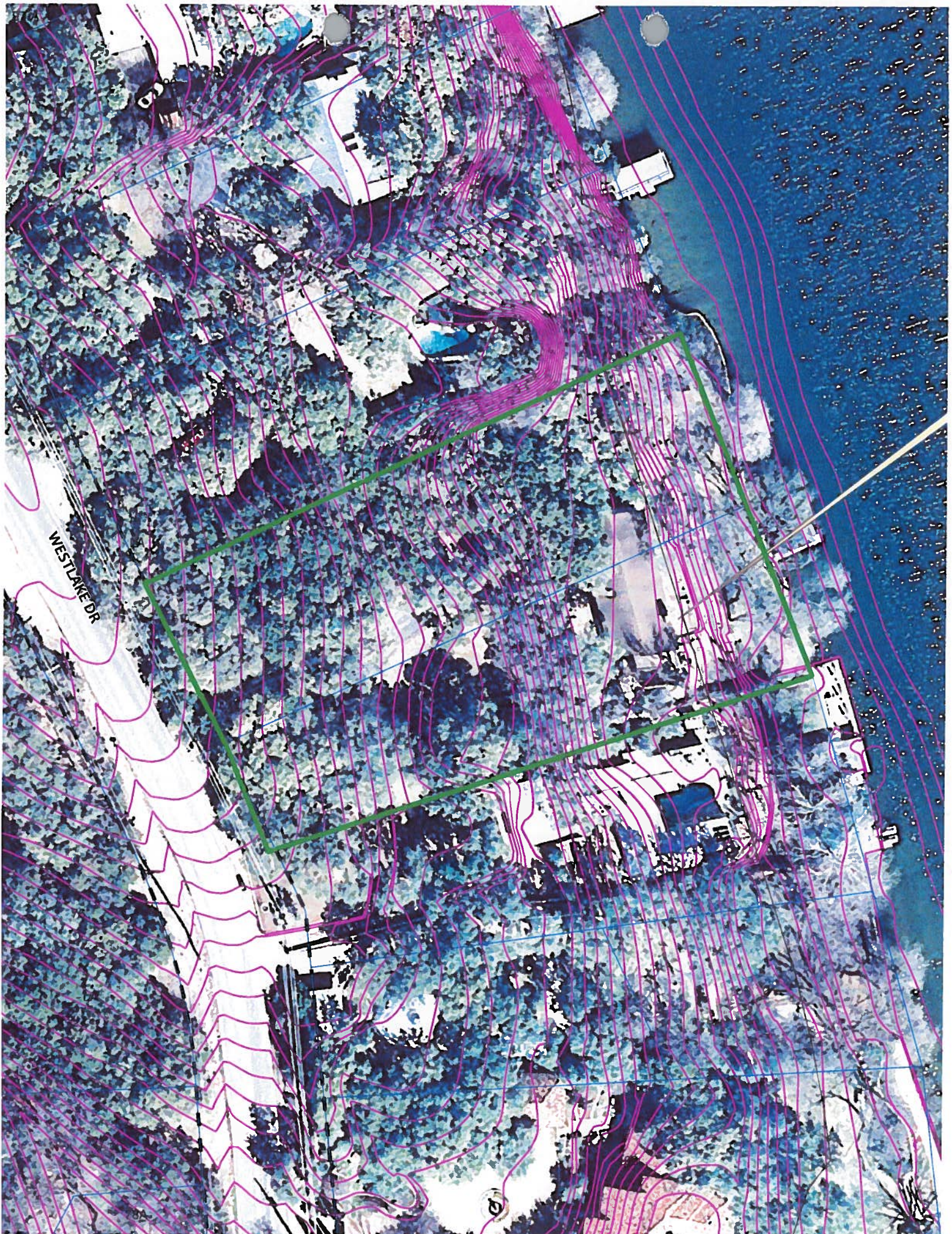






SUBJECT TRACT







To

City of Austin  
Zoning and Platting Commission  
301 West 2<sup>nd</sup> St.  
Austin, TX

05.29.2013

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RE: Case Number C14-2013-0048  
3715 Westlake Dr.

To Whom It May Concern:

The attached application is for a request to change the zoning at 3715 Westlake Drive from LA, Lake Austin to SF-2, Single Family Residential 2. The subject site is legally known as lots 92 & 93 Lakeshore Addition, book 3, page 30-31, Travis County Plat Records. The subject site is composed of two individual lots currently housing one single family dwelling unit. The combined size of the two lots is approximately 59,000 square feet, or 1.3 acres.

The reason said zoning request has been made to the City of Austin is to enable the construction of a new, *legally* compliant single family residence on *legal* conforming lots. Because the City applied LA zoning to the lots, the residence is classified as non-compliant with respect to rear zoning setback; each lot is classified as nonconforming due to each lot being less than 1 acre in size. Overall, the site is non-compliant with LA zoning impervious cover standards, tree protection requirements, and various environmental regulations that were not in place at the time of original, preannexation construction. If the current site improvements were proposed for new construction under LA zoning regulations, the site could not be developed. The current house was built in the late 1970's and annexed into city limits in the early 1980's (approximate). The original 1915-era lots are approximately 29,500 square feet each. At the time of annexation LA zoning was applied to the lots despite the individual lots not meeting the minimum one acre size requirement for LA zoning property per LDC 25-2-492. Further, each lot has less than one hundred feet of frontage on Westlake Drive as required by LA zoning development standards. In doing so, the city created two nonconforming lots with respect to LA zoning lot size requirements.

05.29.2013

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As stated the single family residence and related improvements, i.e., driveway, walkway and other impervious cover related items were in place prior to application of City of Austin development regulations outlined in the Land Development Code. As a result the City created a noncomplying situation with respect to impervious cover and setback allowances prescribed in the LA zoning development standards.

The existing residence sits well within the 75 foot shoreline setback exacted on the site per LA zoning standards. Being an approximately 30 year old residence, substantial upgrades are needed in order to upgrade the home due to substantive deferred maintenance issues. After many meetings with consulting professionals, it has been advised that a new single family residence would be beneficial to the site given its current state. Said proposed residence, although not designed, would be in keeping with the aesthetics of surrounding properties. It would also improve environmental control measures.

After thorough review of the LA zoning impervious cover requirements outlined in LDC 25-2-551 (D) in concert with the lots' substantial topographical slope from Westlake Drive toward Lake Austin shoreline, it has been determined that a new single family residence cannot comply with the categorical impervious cover limits outlined in LDC 25-2-551(D) without a number of zoning and environmental variances approved by the city of Austin. Under LA zoning, the lots present a substantial challenge to any redevelopment when taking into consideration the approximate 50 foot change in grade from Westlake Drive to Lake Austin. Further there are well over 100 trees on the lots which limit the available foot print of any proposed improvements above and beyond the base zoning allowances. Many of the existing trees are protected and heritage sized trees. Per regulations enforced by the City Arborist Department, the protected and heritage sized trees substantially

**Permit Partners, LLC**

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limit and direct the location of all proposed improvements, providing further encumbrances on the two lots. The owner intends to fully cooperate with all recommended and required tree protection measures.

Due to the lot slope and the protected tree locations, a design oriented driveway must be installed to accommodate lot topography and access to the proposed residence. The Land Development Code prescribes specific impervious cover allotments within three slope categories. Further, LDC 25-2-551(D) (and staff's interpretation of this section) does not allow the applicant to use the total of all three slope category coverage allowances, but rather an applicant is required to calculate the maximum impervious cover allotment per each category. That categorical allotments cannot be combined to determine total site allowable impervious cover.

For example:

- A 0-15% slope category allows up to 35% impervious cover. If 1000 square feet of a site's slope is 0-15%, then only 350 square feet of impervious cover is allowed only on that land with 0-15% slope.
- A 15-25% slope category allows up to 10% of impervious cover. If 1000 square feet of a site's slope is 15-25%, then 250 square feet of impervious cover is allowed only on that land with 15-25% slope.
- A 25-35% slope category allows up to 5% of impervious cover. If 1000 square feet of a site's slope is 25-35%, then 50 square feet of impervious cover is allowed only on that land with 25-35% slope.
- A 35%+ slope prohibits any development.

In the above example, a 3,000+ square foot lot would allow only 26% impervious cover, or 400 square feet on each lot. Relative to the subject site, recent calculations indicate approximately 6% of the total site area, or 3,400 square feet on each lot would be available

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for development when applying the LA zoning impervious cover slope category regulations. That allows approximately 6,800 square feet of total impervious cover on an approximately 59,000 square foot site. This allowable impervious cover would be scattered throughout the site and not result in a coherent, sensible floor plan, but rather in an inefficient use of the site as a whole.

As such, the owner is left with no remedy but to request SF-2 zoning in order to reasonably enjoy the property similar to surrounding residential sites. As you may be aware there are many SF-2 zoned properties peppered along the banks of Lake Austin. After thorough research, the mixture of LA and SF-2 zoned lake properties appear to demonstrate a varied degree of compliance with minimum LA zoning lot size requirements.

Under SF-2 zoning allowances, the site would be allowed approximately 26,000 square feet of impervious cover. The homeowner is proposing approximately 18,000-20,000 square feet of impervious cover which includes an extended, but necessary, driveway as well as the typical structural improvements related to foundations, decks, retaining walls and more. If allowed to proceed under SF-2 zoning development standards the owner proposes to erect a new single family residence toward the middle of lot, away from its current location near the shoreline. This proposed distance would be approximately 75 feet from water's edge. Additionally, newly erected retaining walls and erosion and sedimentation control measures would be installed further enhancing environmental compliance of the site beyond the existing, outdated improvements. It is understood that if SF-2 zoning was granted, all Lake Austin watershed regulations would apply and be adhered to during the development process.

Understandably, the owner has yet to finalize any formal building plans pending outcome of the request before you.

## **Permit Partners, LLC**

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As mentioned, increased environmental protection measures will meet the intent of the LA zoning ordinance. Moreover, the net benefit of approving said zoning change request is the city creates a legal complying structure built on two legal conforming lots. The site will remain a single, residential site with one single family residential use. This is in keeping with the current residential use.

In sum, the applicant respectfully requests the City remedy the misapplication of LA zoning on the two non-conforming lots by applying SF-2 zoning without conditions, thereby allowing the property owner to enjoy the full extent of property rights while improving the overall condition of the site via compliance with applicable zoning and environmental and building code regulations.

I respectfully request the City consider said request for the reasons outlined above. I look forward to discussing the case and answering any questions you may have at the June 4, 2013 Zoning and Platting Commission hearing.

Respectfully,

David Chace Cancialosi,  
Agent for property owner  
C/o Permit Partners, LLC

cc: John Mayes, property owner  
Clark Patterson, City of Austin Zoning Case Manager

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**Permit Partners, LLC**

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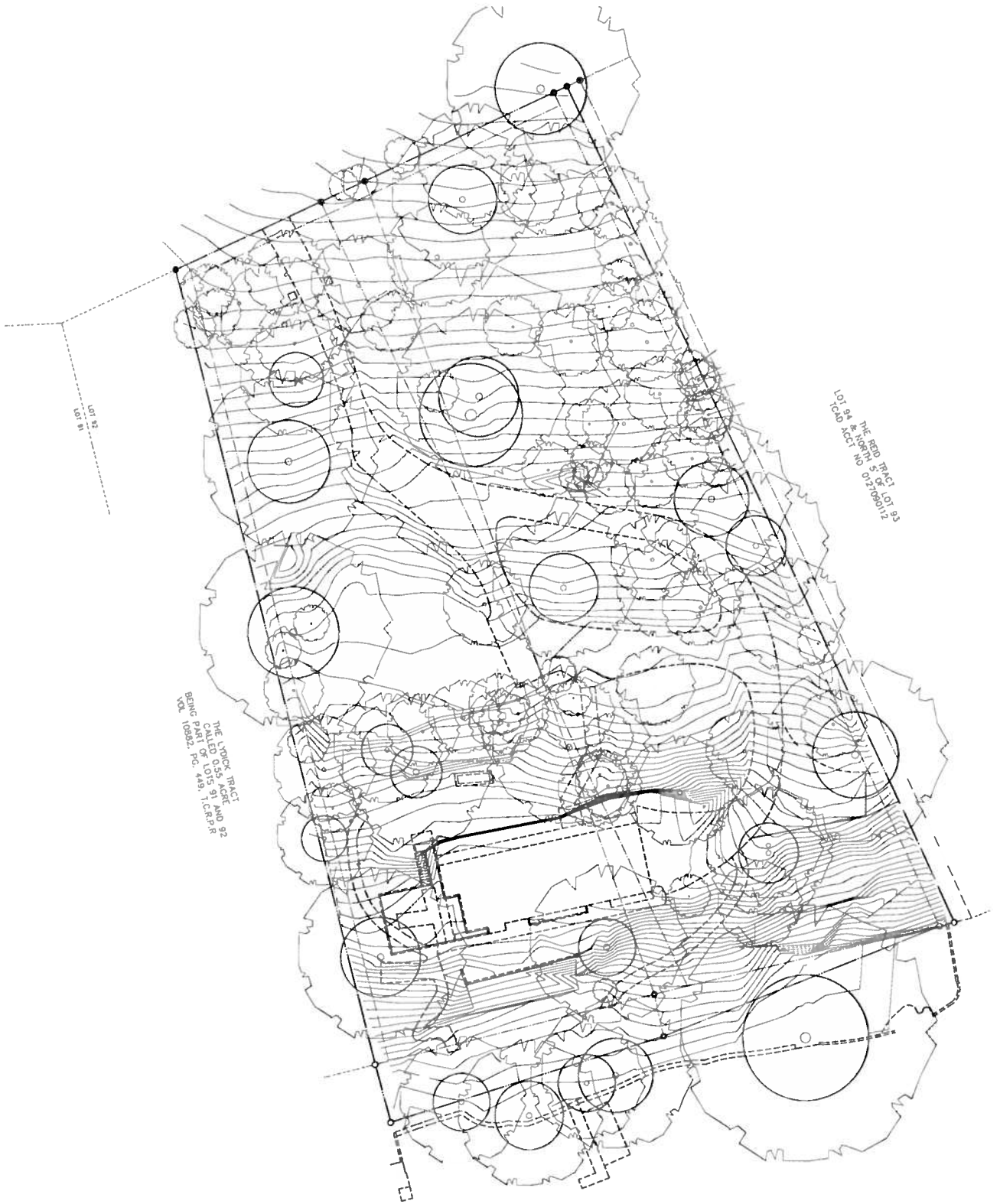




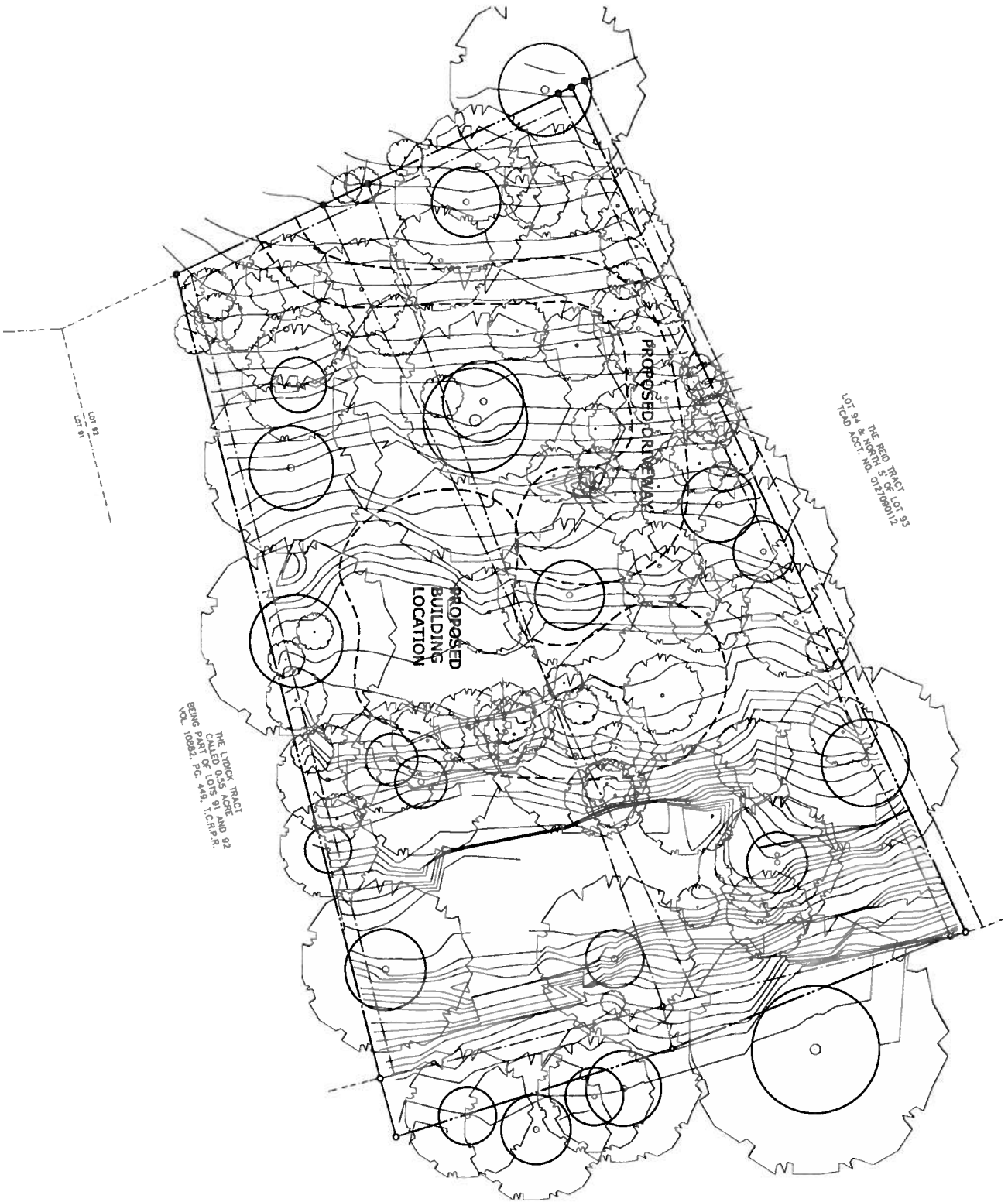




- SLOPED AREA 0-15% GRADE
- SLOPED AREA 15-25% GRADE
- SLOPED AREA 25-35% GRADE
- OVER 35% GRADE
- 75' SHORELINE SETBACK
- 1/2 CRITICAL ROOT ZONE OF HERITAGE TREES







LOT 93  
LOT 91

THE RED TRACT  
LOT 94 & LOT 95  
ICAD ACCT. NO. 01209812

PROPOSED  
BUILDING  
LOCATION

THE LYONS TRACT  
CALLED 0.45 ACRES  
BEING PART OF LOTS 91, C.R.P.R.  
VOL. 10882, PG. 449, I.C.R.P.R.

## Patterson, Clark

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**From:** Carol Lee <clee.lee@cityoflakeaustin.com>  
**Sent:** Monday, June 03, 2013 1:45 PM  
**To:** Baker, Betty - BC; Rojas, Gabriel - BC; Banks, Cynthia - BC; Meeker, Jason - BC; Seeger, Patricia - BC; Compton, Sean - BC; McDaniel, Rahm - BC  
**Cc:** Patterson, Clark; Rusthoven, Jerry; Lesniak, Chuck  
**Subject:** LA Rezoning: C14-2013-0048 and C14-2013-0045

Chair Baker and Commissioners,

I urge you to DENY the request to upzone the four lots adjacent to Lake Austin, as is being requested in cases C14-2013-0048 and C14-2013-0045 on your 4 June 2013 agenda.

In the case of C14-2013-0048, the applicant states intention to replace the existing single-family residence with a new residence on the combined 1.3 acres. TCAD records show this address to already be one tax parcel of 1.3667 acres. There is no reason to upzone both of these lots to accommodate a single-family residence as they have 1.3667 acres of land to work with, which exceeds the minimum lot size for LA development. For case C14-2013-0045, please note that the Zoning Change Review Sheet shows a lot size of .432 acres whereas the TCAD records show it to be .6285 acres with 234 feet of shoreline, which also seems adequate for developing a single-family residence.

Since residential development is not reviewed or inspected for compliance with environmental regulations (see Ordinance 20060126-069), the LA zoning regulations are the only method for applying environmental regulations to property within the sensitive 1000 feet of the Lake Austin shoreline. **Our Chief Environmental Officer, Chuck Lesniak, stated at a 13 May 2013 Lake Austin Task Force meeting that the LA Zoning District regulations were the single most important factor in maintaining the water quality of Lake Austin.**

LA Zoning district regulations provide generous exceptions for lots in subdivisions that were platted before April 22, 1982, as is the case for the subject properties in the Aqua Verde and the Lakeshore Addition subdivisions. These exceptions, already built into the LA Zoning, reduce the shoreline setback to 25 feet, reduce the other setbacks to SF-2 standards, and increase the amount of impervious cover allowed on slopes less than 35%. **No other residential zoning categories consider the shoreline vegetation, construction on steep slopes, or placement of onsite septic facilities.**


You need to ask yourself why these applicants cannot develop or re-develop these properties within the LA Zoning District regulations, especially the less stringent regulations that apply to these properties. If there is a justification for construction on steep slopes, onsite septic facilities near the shoreline, or other environmental variances, let that be determined on a case-by-case basis when there is a specific site plan that can prove the findings of fact for a unique situation.

The environmental protections buried within the LA District Zoning should have been implemented as an Overlay that applies regardless of the underlying zoning, as was done for Lady Bird Lake and Barton Springs. The Lake Austin Task Force has been discussing this as a recommendation to Council, so you may see a rash of requests for upzoning from LA as a way to gain blanket exemption from the only environmental regulations that protect Lake Austin and our drinking water supply. Please do not be party to these efforts to gain blanket exemption from the Lake Austin environmental protections.

Please don't hesitate to contact me if you need additional information or have questions.

Thank you,

Carol Lee  
Glenlake Resident  
Vice Chair, Lake Austin Task Force  
Vice President, Lake Austin Collective

  
512-794-8250