

ZONING CHANGE REVIEW SHEET

CASE: C14-2014-0084 / Old Bee Caves Road Office **P.C. DATE:** July 8, 2014

ADDRESS: 6804 Old Bee Caves Road **AREA:** 8.939 acres

NEIGHBORHOOD PLAN AREA: West Oak Hill Neighborhood

OWNER: WNAO Holdings, Ltd (Amir Kalantari)

APPLICANT: AJ Ghaddar, P.E. & Associates (AJ Ghaddar)

ZONING FROM: LR-CO-NP, Neighborhood Commercial-Conditional Overlay-Neighborhood Plan combining district zoning and CS-NP, General Commercial Services-Neighborhood Plan combining district zoning

ZONING TO: GO-CO-NP, General Office-Conditional Overlay-Neighborhood Plan combining district zoning

SUMMARY STAFF RECOMMENDATION:

To grant GO-CO-NP, general office-conditional-overlay-neighborhood plan, in which the Conditional Overlay limits trips to less than 2000 vehicle trips per day.

PLANNING COMMISSION RECOMMENDATION:

July 8, 2014 Recommend to Grant GO-CO-NP, general office-conditional-overlay-neighborhood plan, in which the Conditional Overlay limits trips to less than 2000 vehicle trips per day as recommended by Staff (Motion: S. Oliver; Second: J. Nortey) 7-1-1 (Nay: N. Zaragosa; Absent: J. Steven)

Recommendation to Grant GO-CO-NP, general office-conditional-overlay neighborhood plan, in which the Conditional Overlay limits trips to less than 2000 vehicle trips per day and a Maximum FAR of 0.5 (Motion: N. Zaragosa; Second: None).

DEPARTMENT COMMENTS:

This nearly 9-acre tract is at the northeast corner of the intersection of Old Bee Caves Road and West US Highway 290. Old Bee Caves Road intersects US 290 approximately 1200 feet west of the William Cannon/US 290 intersection and approximately 1000 feet east of the "Y" in Oak Hill (see Exhibits A).

This property was not always at an intersection. Recent and ongoing improvements to US Highway 290 by TxDOT resulted in acquisition of the commercial parcels immediately south of the subject tract (depicted as LR-NP on the Exhibit A & A-1). It is currently unknown what the long-term plan for this adjacent stretch of US 290 is, but this 250' widened area is currently used for staging and storage purposes. Immediately north of US290, there is a low water crossing on Old Bee Caves Road, with control arms to close the crossing if necessary.

Even so, Williamson Creek lays between the southern boundary of the property and the new northern edge of US 290 right-of-way. The Freescale Semiconductor campus lies to the east, as does an old cemetery, which takes access from Old Bee Cave Road by means of an easement

across the northern 50 feet of the subject tract. Commercially zoned properties lie to the north and east; the property to the north is bisected by a 30' easement to an electric substation, and most recently used for firewood sales. The commercially zoned property west of Old Bee Caves Road is largely undeveloped.

The subject tract itself is undeveloped, and will remain largely so. Because of Williamson Creek at its southern boundary, and an unnamed natural channel along Old Bee Caves Road, approximately 4.3 acres is within the Water Quality Transition Zone (WQTZ) and approximately 3.2 acres (the entire CS-zoned piece) is within the Critical Water Quality Zone (see Exhibit A-3); there's also floodplain, but the limits of this are within the CWQZ. The result of these constraints is that development is prohibited on more than two-thirds of the site, and limited to the northeast corner of the site. In addition, because of this property's location in the Barton Creek Watershed, impervious cover is limited to 25%.

The request for rezoning is driven by the applicant's stated desire to develop office and educational uses. The current LR zoning would likely accommodate the office use, and perhaps the educational function, depending on the nature of that function and how it was classified as a use. Because of the site development constraints, however, the applicant is requesting GO because it allows for additional height. Specifically, the applicant proposes a single structure that would include three levels of office and classroom space above two and one-half levels of parking, some of which would be partially underground. As a zoning district, GO allows for a maximum of 60 feet in height, compared with the 40 feet allowed in the LR district.

Correspondence from stakeholders is attached (see Exhibit C). Staff expects additional correspondence may be received (and appended) prior to the Planning Commission meeting.

ABUTTING STREETS & TRANSIT:

Street Name	ROW Width	Pavement Width	Classification	Bicycle Route	Bus Service	Sidewalks
Old Bee Caves Rd.	62 feet	35 feet	Neighborhood Collector	No	No	No

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-NP & LR-CO-NP	Undeveloped
<i>North</i>	CS-CO-NP	Firewood Sales; Access Easement
<i>East</i>	P-NP; LI-PDA-NP	Cemetery; Office/R&D/Manufacturing/Sales (Freescale)
<i>South</i>	LR-NP	Right-of-Way (US 290)
<i>West</i>	CS-NP; GR-NP	Right-of-Way (OBC); Shopping Center

TIA: Not Required (Applicant requests standard trip limitation through a conditional overlay)

WATERSHED: Williamson Creek Watershed - Barton Springs Zone

DESIRED DEVELOPMENT ZONE: No **CAPITOL VIEW CORRIDOR:** No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ASSOCIATIONS & COMMUNITY ORGANIZATIONS:

COMMUNITY REGISTRY NAME

COMMUNITY REGISTRY ID

Oak Hill Association of Neighborhoods	298
City of Rollingwood	605
Austin Independent School District	742
Estates of Loma Vista HOA	780
Save Our Springs Alliance	943
Circle C Neighborhood Assn.	967
Homeless Neighborhood Organization	1037
Bike Austin	1075
Oak Hill Neighborhood Planning Contact Team	1166
Super Duper Neighborhood Objectors and Appeals Organization	1200
Austin Monorail Project	1224
Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Covered Bridge Property Owners Association, Inc.	1318
Austin Heritage Tree Foundation	1340
Oak Hill Trails Association	1343
SELTexas	1363

ZONING CASE HISTORIES FOR THIS TRACT:

6804 Block of Old Bee Caves C14-85-288.126	RR to CS		Approved; 03/19/1987 Public RC limits uses, specifies standards
6804 Old Bee Caves C14-2008-0125	I-RR to LR-CO-NP (for that portion not CS)		Approved; 12/11/2008 (CO prohibits service station and custom manufacturing in CWQZ and WQTZ)

The CS granted to the southwest portion of the tract in 1987, and most of the surrounding zoning, was a result of the Oak Hill Area Study. Conducted by the Office of Land Development Services beginning in 1985, the intent of the study was to create a comprehensive zoning map for recently annexed areas. Designed to promote water quality, protect environmental resources, ensure compatible land uses, and specify site development standards, the majority of the zoning ordinances were accompanied by a public restrictive covenant. Such a covenant accompanies the CS portion of the property (see Exhibit B). Because the current owner has no desire to develop that portion of the property (and it is entirely within the CWQZ), there is no need to amend or terminate the covenant at this time (which would also entail a separate application).

Rezoning of the northeastern portion of the property from I-RR to LR-CO-NP was accomplished through the adoption of the Combined Oak Hill Neighborhood Plan and associated East and West Oak Hill zoning ordinances.

Despite potential for rezoning with the Oak Hill neighborhood planning effort, a review of the one-mile stretch along Old Bee Caves Road from US Highway 290 to Wier Hills Road indicates relatively little rezoning since those that resulted from the Oak Hill Area Study in the mid- and late-1980s.

ZONING CASE HISTORIES IN THE AREA:

NUMBER	REQUEST	LAND USE COMMISSION	CITY COUNCIL
OLD BEE CAVES ROAD			
(6804) Bee Caves Road (Cemetery) C14-85-288.D	I-RR to P		Approved; 06/11/1987
6900 Old Bee Caves C14-02-0095	RR to CS-CO	Recommended; 07/23/2002	Approved; 10/31/2002 (CO limits uses and <2000 vtd) Public RC includes IPM & Grow Green ; ROW dedication of ~ 10 feet
(7400) Old Bee Caves C14-94-0103	LR to SF-6	Recommended 07/26/1994	Approved; 09/01/1994
7401 Old Bee Caves C14-2012-0115	RR-NP to LR-NP, GO-MU-CO as amended	Recommended; 10/23/2012	Approved; 12/06/2012 (CO limits height, vtd <2000 and prohibits offsite parking)
7411 Old Bee Caves C14-93-0187	RR to LO	Recommended LO-MU-CO; 03/16/2004	Approved LO-MU-CO; 06/24/2004 (CO limits vtd < 2000); Public RC requires IPM & Grow Green
7500 Old Bee Caves C14-00-2003	I-RR to RR (City initiated)	Recommended; 03/21/2000	Approved 10/05/2000
7507 Old Bee Caves C14-93-0115	I-RR to GO-CO and RR	Recommended; 10/26/1993	Approved; 04/07/1994 (CO limits FAR for medical office; requires SOS compliance) ROW dedication

			of up to 20'
(7809) Old Bee Caves C14-99-2022	I-RR to RR	Recommended; 11/09/1999	Approved; 12/09/1999
W US HWY 290			
6820 W US Hwy 290 C14-85-288.187	I-SF-2 to LR		Approved; 03/03/1988; Public RCs addressed site dev. standards (<i>parcels since acquired for ROW by TxDOT</i>)
(6800) W US Hwy 290 C14-85-288.188			
6812 W US Hwy 290 C14-85-288.189			
6858 W US Hwy 290 C14-99-2106	I-RR to RR	Recommended; 12/14/1999	Approved; 01/13/2000

Of note, the properties depicted at the northwest corner of Old Bee Caves and US 290 with a zoning designation of SF-2-NP, RR-NP, and I-SF-2-NP have also been acquired by TxDOT for right-of-way purposes.

CITY COUNCIL DATE:

Scheduled to be considered August 7, 2014

CITY COUNCIL ACTION:**ORDINANCE READINGS:**1st2nd3rd**ORDINANCE NUMBER:**

CASE MANAGER: Lee Heckman
e-mail address: lee.heckman@austintexas.gov

PHONE: 974-7604

SUMMARY STAFF RECOMMENDATION

BACKGROUND

This is an 8.989-acre tract immediately north of US Hwy 290 between William Cannon and the "Y" in Oak Hill. The northeastern two-thirds of the tract are zoned LR-CO-NP, which it acquired in 2008 through the Oak Hill Neighborhood Plan; the southwestern third of the property is zoned CS-NP, with the CS having been established by an Oak Hill Area Study rezoning in 1988. The site is undeveloped.

The current Neighborhood Commercial (LR) district is the designation for a commercial use that provides business service and office facilities for the residents of a neighborhood. Site development regulations and performance standards applicable to a LR district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment. The conditional overlay (CO) adopted for this property (and others) at the time of 2008 neighborhood planning prohibits service station and custom manufacturing use within any 100-year floodplain, Water Quality Transition or Critical Water Quality Zone, or CEF buffer.

General Commercial Services (CS) district is the designation for a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments. There is no CO on this portion of the property. However, a public restrictive covenant (see Exhibit) was executed in association with the rezoning to CS. The covenant restricts impervious cover (50%), maximum floor to area ratio (.25), and prohibits an assortment of commercial and civic uses.

The proposed General Office (GO) district is the designation for an office or commercial use that serves community and city-wide needs. A building in a GO district may contain one or more different uses. The applicant has proposed a use of the property as a mix of office and private classroom space, along with structured parking, all within a single building.

BASIS FOR RECOMMENDATION

Zoning should be consistent with an adopted study, the Future Land Use Map (FLUM) or an adopted neighborhood plan; and

The rezoning should be consistent with the policies adopted by the City Council or Planning Commission/Zoning and Platting Commission.

This tract is designated on the Plan's Future Land Use Map as Mixed Use, which allows for office zoning; a neighborhood plan amendment is not required.

The Oak Hill Combined Neighborhood Plan, adopted in 2008, envisions Old Bee Cave Road as Mixed Residential and Neighborhood Mixed Use. Noting the range of existing zoning districts along the corridor (from CS to RR), further intensification of land uses was not recommended in the Plan. A downzoning from commercial to office land uses is consistent with the recommendation to not further intensify land uses.

As discussed more fully in the Comprehensive Planning staff review comments, this proposal is also consistent with the adopted Imagine Austin Comprehensive Plan (IACP). Specifically, the IACP supports development/redevelopment over environmentally sensitive areas, as long as the

aquifer and recharge zone are considered. Being located in an Activity Center for Redevelopment (which includes the area north of US290 from William Cannon to the "Y"), the proposed office zoning, though perhaps less active than a retail establishment, is still appropriate and consistent with the mix of uses envisioned by the IACP.

Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.

This property is uniquely located, in that there are few, if any, immediate neighbors. To the east, next to where the development would be located, is the cemetery. Also to the east are detention or water quality ponds of the Freescale Semiconductor campus. US290 is to the south, across Williamson Creek. On the opposite side of Old Bee Caves Road is undeveloped (but inhabited) 18 acres of CS-zoned property. To the north is another commercial tract bisected with an access easement to an electric substation, but still used for firewood sales.

As a land use, the proposed GO is compatible with the abutting land uses. Clearly, rezoning it from CS and LR to GO is not detrimental to neighboring properties; arguably, an office use is less detrimental to the neighborhood than development of the site under existing zoning.

A change in conditions has occurred within the area to indicate that there is a basis for changing the originally established zoning and/ or development restrictions for the property; and

Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.

The proposed zoning, from general commercial services and neighborhood commercial to general office, is a downzoning in terms of development intensity. While the property is now at the intersection of US290 and Old Bee Caves Road, the latter is clearly not an arterial or major collector. Old Bee Caves Road is classified as a neighborhood collector, and as noted earlier, has a low water crossing.

Looking at this from a reversed perspective, staff would be very hard pressed to recommend an upzoning from GO to LR and CS, if that were the case. This is a case where conditions really haven't changed since the property was zoned CS in the mid-1980s and LR in 2008. Old Bee Caves Road has not been improved.

In addition, there is a significant amount of CS-zoned property along Old Bee Caves Road (mostly from the mid and late 1980s) that has yet to be developed. Although development of this property will lead to additional vehicle trips per day, downzoning to office will likely result in fewer vehicles trips than might have been generated under the current commercial zoning. In the context of yet to be developed commercial properties, any potential to less traffic counts could be welcomed.

Zoning should allow for a reasonable use of the property.

This tract is nearly 9 acres. Of that, only a portion is developable – under any zoning scenario, owing to the existence of Williamson Creek, floodplain, WQTZ and CWQZ, an access easement to a cemetery, and an impervious cover cap of 25%. The proposed zoning district, requested to

facilitate office and classroom development, would be a reasonable use of the site. While GO would grant additional height needed to make the proposed building feasible, staff thinks the tradeoff of height versus intensity of use is a reasonable one at this location.

EXISTING SITE CHARACTERISTICS AND REVIEW COMMENTS

Site Characteristics

This is an 8.989-acre tract immediately north of US Hwy 290 between William Cannon and the "Y" in Oak Hill. The northeastern two-thirds of the tract are zoned LR-CO-NP, which it acquired in 2008 through the Oak Hill Neighborhood Plan; the southwestern third of the property is zoned CS-NP, with the CS having been established by an Oak Hill Area Study rezoning in 1988.

The site is undeveloped. Any development will be constrained by Water Quality Transition Zone, Critical Water Quality Zone, and the 25- and 100-year floodplain. Despite the presence of Williamson Creek along the southern boundary, the site as a whole is relatively flat, sloping gently from north to south. The majority of trees on site are located on the west and south property lines; given that development will likely occur in the northeast corner, outside of the CWQZ and WQTZ, which is sparsely treed, it is unknown to what extent trees will be disturbed.

There is also a 50' wide access easement along the northern boundary, which provides access to a cemetery, and is currently maintained by a private management entity. If developed as proposed by the applicant, this driveway would be improved, function as the driveway to the proposed development, and be primarily maintained by the applicant.

PDRD Comprehensive Planning Review (KF) (2014-06-02)

This zoning case is located on the east side of Old Bee Caves Road, within the boundaries of the Oakhill Combined Neighborhood Plan (OHCNP). This undeveloped property is approximately 8.9 acres in size and is surrounded by vacant land in all four directions. Old Bee Caves Road is located just off US Hwy 290, which is located just south of this property. The proposed use is 'office.'

Oakhill Combined Neighborhood Plan

The OHCNPA Future Land Use Map (FLUM) classifies this property as 'Mixed Use;' zone GO (General Office) is permitted under this FLUM category. Mixed Use is defined as an area that is intended for a mix and non-residential uses, including retail and commercial services. The following text, goals, objectives and recommendations are taken from the OHCNP:

Goal 6.A. Provide opportunities for high-quality new development and redevelopment.

Objective 6A.1: Ensure quality of new construction and renovations. (p 66)

Goal 6.B. - Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment. (p 66)

Objective 6.B.1 - Encourage zoning to be compatible with existing and neighboring land uses and seek optimal and most appropriate use of land.

Goal 6.C: Create a **mix of uses** in existing corridors of commercial development that will provide a diversity of local services convenient to neighborhoods and establish commercial "nodes" (concentrated) (p 67)

Goal 9.C. Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment. (p 140)

Objective 9.C.1 - Ensure that the environmental impact on the Edwards Aquifer and the existing natural landscape is kept at a minimum by new commercial development and redevelopment in Oak Hill.

Text taken from the Plan: "Currently, Old Bee Caves Road is a narrow two-lane roadway with no sidewalks, curbs, or gutters. The road was designed to accommodate low-density, low-traffic developments. It currently serves single-family residences with large lots, multi-family buildings, mobile home subdivisions, and commercial property. Some sections of the roadway have dense vegetation abutting the road; other sections have barbed wire fences with cattle guard gates. These give Old Bee Caves Road its rural character. Because it is partly within water quality buffers and the 100-year floodplain, the City has no funds or plans to widen Old Bee Caves Road. This does not necessarily preclude the City from making pedestrian and bicycle improvements." (p 108)

Conclusion:

The Oakhill Combined Neighborhood Plan Future Land Use Map designates this portion of Old Bee Caves Road as Mixed Use, and the policies and text above seem to support providing more local businesses, including offices, as long as it is quality development and that issues pertaining to the narrowness of Old Bee Caves Road are considered. The property is also located over environmentally sensitive land and any new commercial or residential development would have to ensure all environmental ordinances are enforced.

Imagine Austin

The Imagine Austin Growth Concept Map identifies this property as being located over one of the five **'Activity Centers for Redevelopment (located) in an Environmentally Sensitive Area'** as identified on the Imagine Austin Growth Concept Map, found in the Image Austin Comprehensive Plan. This property is also situated within the boundaries of the Barton Springs (Aquifer) Contributing Zone, which 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" water to the aquifer. Page 106 of the Imagine Austin Comprehensive Plan states:

"Five centers are located over the recharge or contributing zones of the Barton Springs Zone of the Edwards Aquifer or within water-supply watersheds. These centers are located on already developed areas and, in some instances, provide opportunities to address long-standing water quality issues and provide walkable areas in and near existing neighborhoods. State-of-the-art development practices will be required of any redevelopment to improve stormwater retention and the water quality flowing into the aquifer or other drinking water sources. These centers should also be carefully evaluated to fit within their infrastructural and environmental context. One of the Land Use and Transportation policies, LUT P21 (p. 102), clarifies the intent, "Ensure that redevelopment in the Edwards Aquifer's recharge and contributing zones maintains the quantity and quality of recharge of the aquifer."

The following IACP policies are also applicable to this case:

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

- **LUT P21.** Ensure that redevelopment in the Edwards Aquifer's recharge and contributing zones maintains the quantity and quality of recharge of the aquifer.
- **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.

Based on this property being: (1) located just off a major highway (Hwy 290), and adjacent Hwy 71 and the 'Y' in Oak Hill, which contains a variety of commercial and office uses; (2) the Oakhill Combined Neighborhood Plan, which supports Mixed Use in this area as long as issues pertaining to the road and environmental factors are considered; and (3) the Imagine Austin policies referenced above, which supports development over environmentally sensitive areas as long as the aquifer and recharge zone are considered, staff believes that this proposed office project is supported by the Imagine Austin Comprehensive Plan.

PDRD Environmental Review (MM) (2014-06-09)

1. This site is not located over the Edwards Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone.
2. Project applications at the time of this report are subject to the SOS Ordinance that allows 25% impervious cover in the contributing zone.
3. According to floodplain maps, there is a floodplain within the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Water Quality Transition Zone and Critical Water Quality Zone exist within the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. 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 512-974-1876. 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. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site. Runoff from the site is required to comply with pollutant load restrictions as specified in Land Development Code.
7. At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

PDRD Site Plan Review (DG) (2014-06-10)

A site plan application has been filed for this site that requires GO zoning.

PDRD Transportation Review (BG) (2014-06-09)

1. A traffic impact analysis is waived for this case because the applicant agrees 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]
2. According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, a bicycle facility is not identified on Old Bee Caves Road.
3. Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
Old Bee Caves Rd.	62 feet	35 feet	Neighborhood Collector	No	No	No

4. Capital Metro bus service is not available within 1/4 mile of this property.

PDRD Austin Water Utility Review (BB) (2014-05-28)

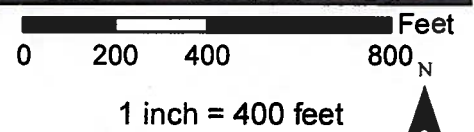
WW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. Depending on the development plans submitted, water and or wastewater service extension requests may be required. 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.

C14-2014-0084 / Old Bee Caves Road Office Building



Aerial: 2012-01

Exhibit A - 1
Aerial & Zoning

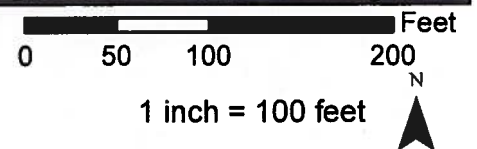


C14-2014-0084 / Old Bee Caves Office Building

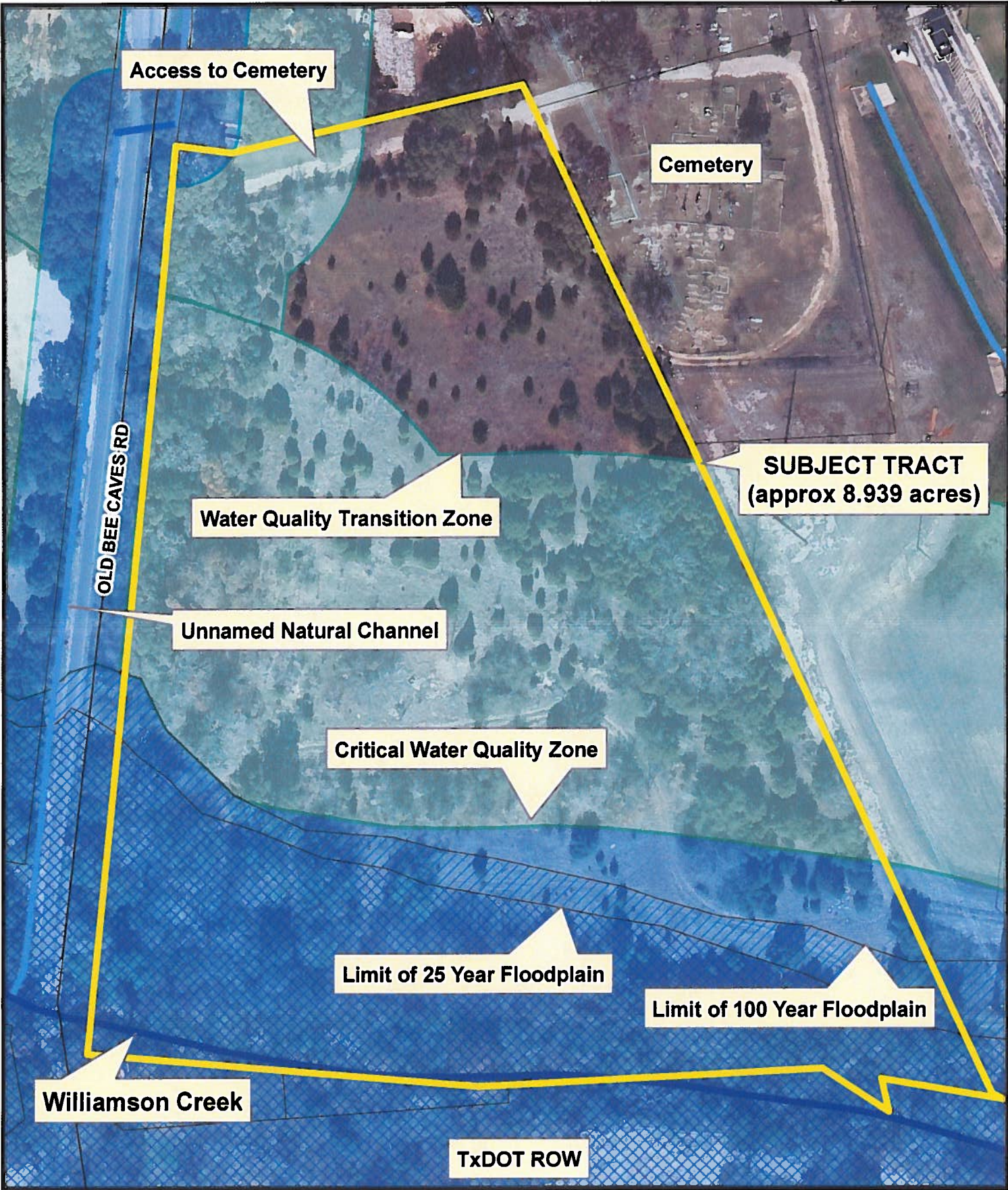


Aerial: 2012-01

Exhibit A - 2
Aerial & Zoning

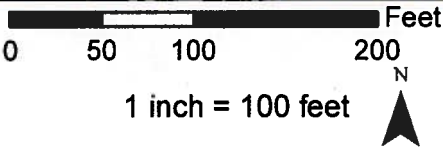


C14-2014-0084 / Old Bee Caves Office Building



Aerial: 2012-01

Exhibit A - 3
Constraints



RESTRICTIVE COVENANT

C-14-85-288.126

130

THE STATE OF TEXAS

X

COUNTY OF TRAVIS

X

4 22 3256

WHEREAS, Ron F. Bearden of Harris County, Texas, is the owner of the following described property, to-wit:

8:37 AM 8988

13.00 INDX

2 2 05/04/87

.99-DAC4

6317.85-CHK4

3.5 acres more or less out of the T. Anderson Survey No. 90 in Travis County, Texas more particularly described in Exhibit A, attached hereto and made a part hereof.

WHEREAS, the City of Austin and Ron F. Bearden have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

NOW, THEREFORE, Ron F. Bearden for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on him, his successors and assigns, as follows, to-wit:

1. The maximum impervious covering allowable shall be 50%.
2. Maximum floor to area ratio allowable shall be .25 to 1.
3. Development of the Property shall be in compliance with all provisions of the Austin City Code of 1981, as amended, pertaining to site development and subdivisions in the Williamson Creek Watershed except for the following Code sections:

The part of Section 9-10-191 which reads "or to a development within a recorded subdivision which was finally

Exhibit B - 1

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approved or finally disapproved by the Planning Commission prior to December 18, 1980."

Section 9-10-208, subsections (c), (d), and (e).

Section 13-3-408(a).

Section 13-3-433, subsections (c), (d), and (e).

4. The following uses shall not be allowed:

a. Commercial Uses

Automotive: Rentals
Automotive: Repair Services
Automotive: Sales
Automotive: Washing
Commercial Off-Street Parking
Consumer Convenience Services
Convenience Storage
Equipment Sales
Equipment Repair Services
Exterminating Services
Financial Services
General Retail Sales: Convenience
General Retail Sales: General
Hotel - Motel
Medical Offices
Pawn Shop Services
Restaurant: Convenience
Restaurant: Limited
Restaurant: General
Service Station
Vehicle Storage

b. Civic Uses

Hospital Services (Gen.)
Transportation Terminals

c. Civic Uses

Hospital Services (Ltd.)

5. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law,

or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in nowise affect any of the provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.
7. The failure at any time to enforce this agreement by the City of Austin, or its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.
8. This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED, this the 23rd day of Oct, 1986.

Exhibit B - 3

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10230 0050

R. F. Bearden

THE STATE OF TEXAS

X

COUNTY OF HARRIS

X

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Ron F. Bearden of Houston, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 23rd day of October, 1986.

NOTARY SEAL

Donna Carothers
Notary Public, State of Texas

Donna Carothers
My commission expires: 4/19/90

DESCRIPTION OF 3.50 ACRES, MORE OR LESS, OF LAND IN THE THOMAS ANDERSON SURVEY, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT 9.11 ACRE, TRACT OF LAND CONVEYED IN A DEED FROM JAY WILLIAMSON, ET AL, TO RON F. BEARDEN, TRUSTEE, DATED OCTOBER 2, 1985 AND RECORDED IN VOLUME 9401 PAGE 701 OF THE TRAVIS COUNTY DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" iron rod found on the existing east line of Old Bee Caves Road, for the southwesterly corner of the John R. Pond Subdivision as recorded in Book 35, Page 45 of the Travis County Plat Records, and for the northwest corner of the aforementioned 9.11 acre Bearden Tract;

THENCE leaving the PLACE OF COMMENCEMENT and the said John R. Pond Subdivision, with the east line of Old Bee Caves Road and the west line of said Bearden Tract, S09°05'00"W 315.92 feet to a 1/2" iron rod set for the northwest corner and the PLACE OF BEGINNING of the herein described tract;

THENCE leaving the PLACE OF BEGINNING and Old Bee Caves Road, and crossing the Bearden Tract the following two courses:

1. S80°55'00"E 94.50 feet to a 1/2" iron rod set; and
2. S45°25'45"E 643.45 feet to a 1/2" iron rod set on the southerly line of the Bearden tract, from which a concrete highway right-of-way monument bears S76°26'29"E 20.31 feet;

THENCE with the southerly line of the Bearden Tract S13°41'23"E 35.00 feet to a 60 D nail set in the approximate center of Williamson Creek for the southeast corner of the herein described tract of land;

THENCE with the centerline of Williamson Creek and the south line of the Bearden Tract the following 5 courses;


1. N60°21'44"W 63.91 feet to a 60 D nail set in the north line of Haskell Hudson Subdivision as recorded in Book 70, Page 79 of the Travis County Plat Records;
2. N87°27'54"W 235.03 feet to a 1/2" iron rod found at the northwest corner of Lot 1 of the Y Subdivision Section Two as recorded in Book 77, Page 179 of the Travis County Plat Records, same being the northeast corner of Lot 1 of the Y Subdivision Section Three as recorded in Book 79, Page 115 of the Travis County Plat Records;
3. S88°44'23"W 31.63 feet to a 1/2" iron rod found;
4. N81°07'36"W 122.06 feet to a 1/2" iron rod found;
5. N75°53'35"W 186.18 feet to a point at the northwest corner of a 1.44 acre tract of land conveyed by Shelby A. Hudson to Erlene Hudson Reynolds in a deed dated June 11, 1964 of record in Volume 2934 Page 330 of the Travis County Deed Records on the aforementioned east line of Old Bee Caves Road for the southwest corner of the herein described tract of land;

Exhibit B - 5

THENCE leaving Williamson Creek and the Reynolds tract, with the east line of Old Bee Caves Road, same being the west line of the Bearden Tract, N09°05'00"E 400.00 feet to the PLACE OF BEGINNING.



VICTOR M. ZEPEDA, Inc. d/b/a
MESA


C. Michael McMinn, Jr.
Registered Public Surveyor #4267

Client: R.F. Bearden
Date: May 22, 1986
County: Travis, Texas
Survey: Thomas Anderson
MESA Project No: M-087-111-1

1d4/3.50

FILED
1987 MAY -4 PM 3:56

COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas on

MAY 4 1987



COUNTY CLERK
TRAVIS COUNTY, TEXAS

Exhibit B - 6

AFTER RECORDING, PLEASE RETURN TO:

From: Robert Tobiansky
Sent: Thursday, June 26, 2014 11:16 AM
To: Heckman, Lee; Heckman, Lee
Subject: Old Bee Caves Road Office Building / C14-2014-084-response

Hi Lee,

Hope this finds you well. Thank you again for all your great input, for educating me about the proposed project on Old Bee Caves Road and for your valuable time. I am writing you back to give you some input about the objections that our Avira community share based on what is currently known.

Our most concerning issues that we would like to address are:

1) The **MOST** dire concern is the additional Traffic footprint that any new business would create in an already over burdened Old Bee Caves Road that empties onto TxDOT US290 and SH71. This is an extremely dangerous intersection that is already heavily traveled. The TxDOT- Oak Hill Parkway expansion Plan is a minimum of at least 6 years away to completion. There is currently about 700 daily traffic footprints, and the road cannot even tolerate this amount, let alone the proposed (up to) 1999 vehicles per each **new** building constructed that would be allowed by the City of Austin. There is an inherent inability to handle a higher level of traffic, given it has only two lanes with curves and no shoulders. Entrance to/exit from 290/71 to OBC is not traffic light controlled.

2) The possible Zoning change precluding the construction of the proposed 4-5 story commercial building. This would involve more de-foresting of our natural surroundings, including shrinking living habitats and would be highly discouraging to the wonderful wildlife and most of the indigenous species. Some of the wildlife in this habitat are most likely on the Austin protected species list. http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/nongame/listed-species
See Federally Listed, State Listed, and Candidate Species in Texas (03.27.2014)

3) Other concerns are the impact on Williamson Creek, the very low and narrow water crossing Williamson Creek Bridge (at Old Bee Caves Rd). The limiting stress of impervious cover and a lack of communication 'coordinating' and discussing planning and design with TxDOT-Oak Hill Parkway 290 construction. The 'over' development of Old Bee Caves Rd. with disappearing green space, the negative environmental impact, and changing the character of the area. A several-story office building is inconsistent with the nature of OBC.

Which roads in Austin are prone to flooding? <http://www.austintexas.gov/faq/which-roads-austin-are-prone-flooding> - Old Bee Caves Road, near Hwy. 290

"Mixed Residential and Neighborhood Mixed Use are the primary land use recommendations along this corridor. Currently, this road has an assortment of zoning districts, ranging from Rural Residential (RR) to Commercial Service (CS), with everything in between—single family, multifamily, limited office, and community commercial. Further intensifying the land uses along this corridor is not recommended. Stakeholders reported that Old Bee Caves Road was dangerous because of its limited width (22 feet–32 feet); its low-water crossing that prohibits access during heavy rainfall, and its curviness. City Council Meeting September 27, 2012

As you suggested, we have also registered our Aviara Community on the '**Community Registry**' but have not received any information to date.

Kind regards,



Robert A Tobiansky, Aviara HOA Board, President 847.530.3520
Lynne Messinger, Vice President,
Dawn Bodon, Treasurer



'Where you are not just a neighbor'