

MEMORANDUM

TO: Dora Anguiano, Planning Commission Coordinator
Planning and Development Review Department

FROM: Eric J. Hammack, Property Agent Supervisor
Land Management Section
Office of Real Estate Services

DATE: May 19, 2015

SUBJECT: F#9479-1502 - Vacation of an unconstructed portion of
Brushy Street, between East 4th Street and East 5th Street.

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Attached are the departmental comments and other information pertinent to the referenced right of way vacation. **The area being requested for vacation will be used for development of the Plaza Saltillo TOD Station Area Plan.** All affected departments and private utility franchise holders have reviewed this request and recommend approval, **subject to finalization of a License Agreement between Capital Metro and City of Austin allowing the City to construct the 4th street alignment of the Lance Armstrong Bikeway.**

The applicant has requested that this item be submitted for placement on the **May 26th, 2015, Planning Commission Agenda** for their consideration.

Staff contact: Eric Hammack at 974-7079 or landmanagement@austintexas.gov

Applicant: Russel Bauer

Property Owner: Capital Metropolitan Transportation Authority

Mr. Bauer or his delegate will be present at the meeting to answer any questions regarding the project, if needed.

Eric J. Hammack, Property Agent Supervisor
Land Management Section

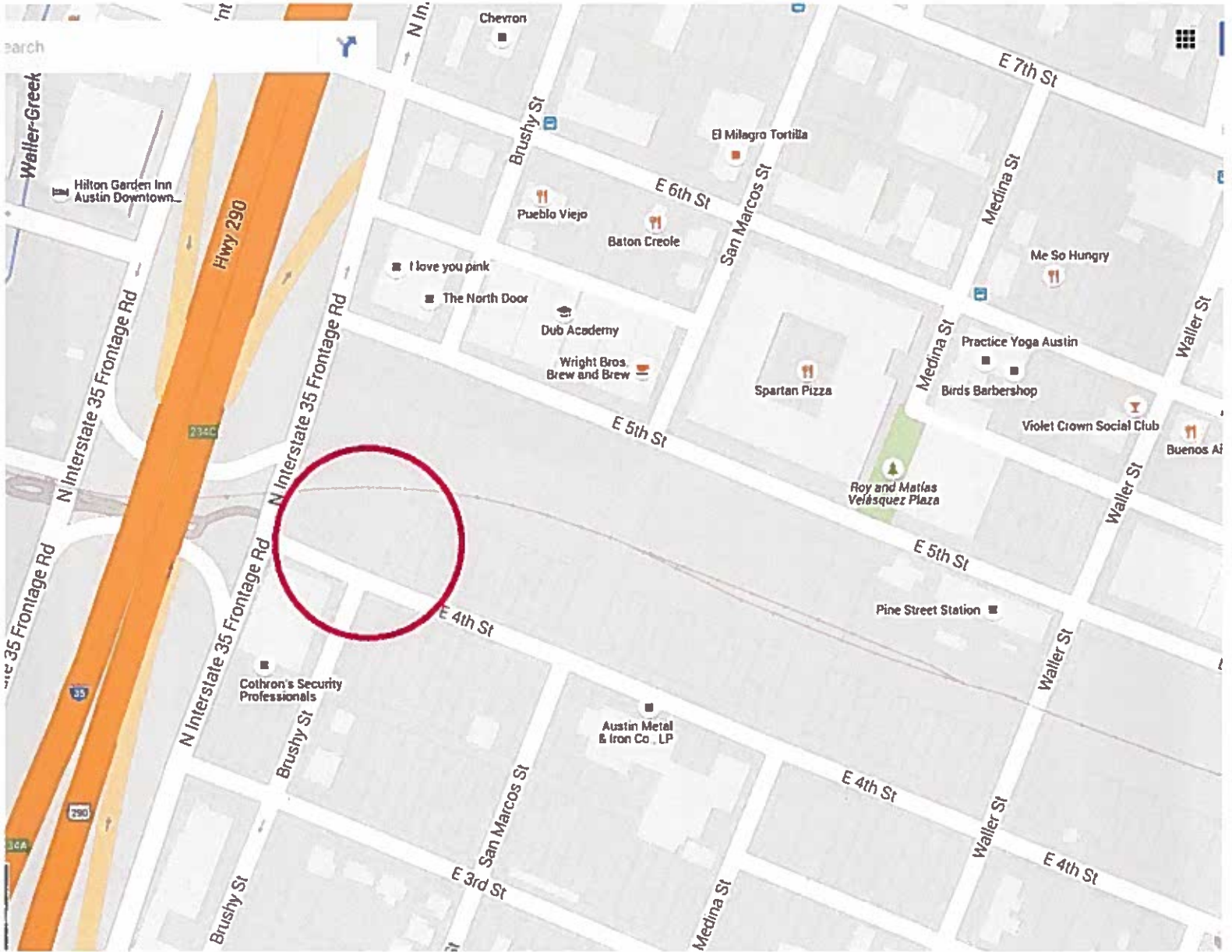
OFFICE OF REAL ESTATE SERVICES
Attachments

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DEPARTMENT COMMENTS FOR THE VACATION OF AN UNCONSTRUCTED PORTION OF THE BRUSHY STREET RIGHT OF WAY BETWEEN EAST 4TH STREET AND EAST 5TH STREET

AT&T	APPROVE
AUSTIN ENERGY	APPROVE
AUSTIN TRANSPORTATION DIRECTOR	APPROVE
AUSTIN RESOURCE RECOVERY	APPROVE
AUSTIN WATER	APPROVE
CAPITAL METRO	APPROVE
CODE COMPLIANCE	APPROVE
CTM – GAATN	APPROVE
EMS	APPROVE
FIRE	APPROVE
GOOGLE	APPROVE
GRANDE COMMUNICATIONS	APPROVE
PARKS AND RECREATION	APPROVE
PLANNING & DEVELOPMENT REVIEW (Land Use Review-Engineering)	APPROVE
PLANNING & DEVELOPMENT REVIEW (Land Use Review-Transportation)	APPROVE
PLANNING & DEVELOPMENT REVIEW (Neighborhood Planning)	REFER TO PLANNING COMMISSION
PLANNING & DEVELOPMENT REVIEW (Urban Design)	APPROVE
PLANNING & DEVELOPMENT REVIEW (Zoning Review)	APPROVE
PUBLIC WORKS	APPROVE – CONDITIONED UPON FINALIZATION OF BIKEWAY LICENSE AGREEMENT
TEXAS GAS SERVICES	APPROVE
TIME WARNER	APPROVE
WATERSHED PROTECTION (Engineering)	APPROVE

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MEMORANDUM

Case No.: 9479-1502
Date: February 2, 2015

SUBJECT: STREET VACATION

- | | | | |
|----------------------|--------------------------------|-----------------------|---------------------------|
| () Lucy Cabading | AT&T | () Marilyn Shashoua | PARD |
| () Melody Glambruno | Austin Energy | () Danielle Guevara | PDRD (LUR-Engineering) |
| () Rob Spillar | Austin Transportation Director | () Sangeeta Jain | PDRD (LUR-Transportation) |
| () Angela Baez | Austin Water | () Mark Walters | PDRD (N'borhood Planning) |
| () Roberto Gonzalez | Capital Metro | () Humberto Rey | PDRD (Urban Design) |
| () Shawn Murphy | CTM - GAATN | () Wendy Rhoades | PDRD (Zoning Review) |
| () Milissa Warren | EMS | () David Boswell | Ofc. Of City Engineer |
| () David Brietzke | Fire | () Christian Barraza | Texas Gas |
| () John Schultz | Google | () Scott Wratten | Time Warner |
| () Luis Mata | Grande Communication | () Katina Bohrer | WPD (Engineering) |
| () Mike Turner | Austin Resource Recovery | () Bruna Quinonez | Code Compliance |

A request has been received for vacation of Brushy Street (Between East 4th Street and East 5th Street).

Please review this request and return your comments to Betty Nguyen (974-7196), email address: landmanagement@austintexas.gov or Fax: 974-7088. Physical address: Office of Real Estate Services, 505 Barton Springs Road, Suite 1350. Due Date: February 17, 2015.

APPROVAL: YES Yes, Subj. to Reqm't No

Comments: _____

Imagine Austin Comprehensive Plan - - - (CITY OF AUSTIN REVIEWERS ONLY):

Please also review the Vacation request based on the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan (page 186).

Comments: _____

Reviewed by: _____

Telephone: _____

Date: _____



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January 26, 2015

City of Austin
Office of Real Estate Services
505 Barton Springs Road, Suite 1350
Austin, Texas 78704

Attn: Land Management Division

RE: Brushy Street vacation, between 4th and 5th Streets

To whom it may concern,
As the land owner of both parcels adjacent to the Brushy Street right-of-way between 4th and 5th Streets, we are requesting the vacation of the right-of-way, to allow for contiguous development of our tracts. The proposed vacation and the future development of the parcel will comply with the approved Regulating Plan for the Plaza Saltillo TOD Station Area Plan.

Per the 'Policies and Procedures for Requesting Street and Alley Vacations' form we have responded to your request and have included the following documents:

- EXHIBIT A - checklist,
- EXHIBIT B - response to questions 1 - 20,
- EXHIBIT C - Application for Street or Alley Vacation,
- EXHIBIT D - Bk. V, Pg. 467, South Half Outlot 1, Division O Subdivision,
- EXHIBIT E - Survey for Brushy Street ROW,
- EXHIBIT F - Subdivision Plat; Bk. V, Pg. 661 Central ROW,
- EXHIBIT G - Site Location Map,
- EXHIBIT H - Warranty Deed,
- EXHIBIT I - Land Use and Design Concept Plan, Figure 2-1, COA, Plaza Saltillo TOD Regulating Plan - REVISED May 25, 2013 via Ordinance NO 20130425-106, Page 19,
- EXHIBIT J - Circulation Concept Plan, Figure 3-4, COA, Plaza Saltillo TOD Regulating Plan - REVISED May 25, 2013 via Ordinance NO 20130425-106, Page 30,

Thanks you for your assistance and we look forward to a positive response.

Sincerely,

Capital Metropolitan Transportation Authority
Director, Real Estate ROW
Vincent Sandoval

EXHIBIT A
CHECKLIST

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BRUSHY STREET VACATION BETWEEN 4TH AND 5TH STREET
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

POLICIES AND PROCEDURES FOR REQUESTING STREET OR ALLEY VACATIONS
City of Austin
Office of Real Estate Services
Effective: September 8, 2014

Please mark and include this checklist to insure that all materials are submitted, in order to help expedite your request:

included Please verify and ensure that the area to be vacated lies within the City's jurisdiction. The vacation application fee is non-refundable once the application is processed. **RESPONSE: THE AREA TO BE VACATED, BRUSHY STREET VACATION BETWEEN 4TH AND 5TH STREET, IS WITHIN THE CITY JURISDICTION.**

NA If your property is served by Pedernales Electric Cooperative, they require an additional \$300 application review fee.

NA In most cases, S.M.A.R.T. Housing Projects are ineligible for vacation application fee waivers. If you believe your project to be eligible for application fee waivers, please provide a copy of your S.M.A.R.T. Housing Certification (Neighborhood Housing 4-10-07) for consideration.

NA If you are submitting your vacation request in conjunction with a commercial/residential development project, a site plan should already be submitted prior to submitting your vacation request. Some vacation application reviewers will postpone reviewing your request until the site plan has been submitted.

City Council adopted the Imagine Austin Comprehensive Plan in 2012, establishing Priority Programs and policy directives which direct the growth and development of the City. Applicants should be aware that requests for right-of-way vacations are reviewed not only for compliance with City Code, but also within the context of the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan.

It is strongly recommended that applicants review Chapter 4 of the Imagine Austin Comprehensive Plan ("Shaping Austin"), and be prepared to demonstrate how a proposed vacation will support the objectives stated therein. The Priority Programs (as listed below) can also be found on page 186 of the Imagine Austin Plan:

1. Invest in a compact and connected Austin.
2. Sustainably manage our water resources.
3. Continue to grow Austin's economy by investing in our workforce, education systems, entrepreneurs, and local businesses.
4. Use green infrastructure to protect environmentally sensitive areas and integrate nature into the City.
5. Grow and invest in Austin's creative economy.
6. Develop and maintain household affordability throughout Austin.

7. Create a Healthy Austin Program.

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NA If your requested alley vacation lies within the Downtown Austin Plan (DAP) area, please read below. (DAP area boundaries: East of Lamar Boulevard, west of IH-35, north of Lady Bird Lake and south of Martin Luther King Boulevard).

According to the City Council-adopted Downtown Austin Plan (DAP), alleys within these boundaries (including the Rainey Street District) shall not be vacated unless specific criteria are met. Here is the text from the DAP:

The City should not permit the closure of alleys, as they provide an important service function. Vacation of alleys should only be allowed if equivalent off-street service facilities are provided, and where such a vacation does not result in a need for on-street servicing/loading. (See TP-1.3.)

TP-1.3: Maintain alleys as the principal means of loading, servicing and parking access. Downtown is fortunate to have a comprehensive system of mid-block alleys that provide rear service access to most properties. These alleys relieve pressure on the streets, allowing them to function for pedestrian, bicycle and vehicular circulation. However, alleys are often congested with dumpsters, power poles and even above grade grease traps that prevent them from functioning properly. The following policies are aimed at preserving and enhancing alleys, and improving their efficiency as both service corridors and for access and egress to parking within a development:

- Vacation or abandonment of alleys should be avoided, and occur only in special circumstances where equivalent off-street service facilities are provided (e.g., within a full-block development), and where such vacation does not result in a need for on-street servicing/loading.
- All development abutting an alley should be required to use alleys for loading, servicing and trash collection.
- When at all possible, primary or secondary access and egress to and from onsite parking should be taken from the alley. This will be more possible once alleys become less cluttered with dumpsters and other obstacles.

Please contact Jorge Rousselin at (512) 974-2975 for further information.

EXHIBIT B Provide a transmittal letter explaining in detail the reason for the vacation, and answering the following questions:

1. Is this a residential or commercial project?
2. How was the area to be vacated dedicated? By plat or by separate instrument?
3. Did the City purchase the area to be vacated? (i.e., by Street Deed)
4. Are both the area to be vacated and your property in the same "subdivision"? (They must both be in the same subdivision to be eligible.)
5. Is the area to be vacated functional right-of-way, or is it only dedicated on paper?

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6. Are there any utility lines within the area to be vacated? If yes, what are your plans for the utilities? Applicants should be advised that easements will be retained to protect existing utilities, even if utility relocation is proposed. Also be advised that no structures may be built on, over or under the easements without a license agreement, insurance, and annual fee.
7. How do you plan to develop the area to be vacated?
8. Has a site plan been submitted on your project?
9. Is your project a Unified Development?
10. Is your project a S.M.A.R.T. Housing Project?
11. When do you anticipate starting construction of the development?
12. What is the current zoning on the adjacent properties?
13. What is the current status of the adjacent properties?
14. What type of parking facilities currently exist?
15. Will your parking requirements increase with the expansion?
16. How will the increase be handled?
17. Have any agreements or easements been executed with adjacent landowner(s) or in draft form? If yes, please include this in your letter and provide us with a copy.
18. Does the area to be vacated lie within the Austin Downtown Plan (DAP)? Does it meet DAP criteria?
19. Does the area to be vacated lie within UT boundaries: East of Lamar Boulevard, west of IH-35, north of Martin Luther King Boulevard, and south of 45th Street?
20. Does the proposed vacation support the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan? If so, how?

EXHIBIT C Provide a fully completed application. (If any sections of the application do not apply, simply mark N/A.)

Included Parcel ID number information can be found on your tax bill, or by calling the Travis County Appraisal District at (512) 834-9138. **RESPONSE: SURVEY PLAT AND ROW MAP FOR CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY OF THE EAST FIFTH (E.5TH) STREET CORRIDOR AND PROPERTY DESCRIBED IN VOL. 10703, PG. 972 AND VOL. 13187, PG. 3118. BEING A PORTION OF OUTLOTS 1, 2 OF DIVISION '0', OF THE GOVERNMENT TRACT ADJOINING THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.**

Included Landowners are entitled to half the street/alley adjacent to their property. If all landowners adjacent to the area to be vacated join in the application, all must appear on the application. **RESPONSE: CAPITAL METRO IS THE LAND OWNER OF BOTH PARCELS ADJACENT TO THE BRUSHY STREET RIGHT-OF-WAY BETWEEN 4TH AND 5TH STREETS, TO BE VACATED.**

NA If an adjacent landowner relinquishes their rights to an area to be vacated, we must have a letter from the landowner stating that they relinquish their rights at the time of submittal. Prior to submitting a request for Council approval, quitclaim deed(s) between the parties must be executed and delivered to the City of Austin.

NA If a landowner is a commercial entity and tenants occupy the premises, we require a list of all tenant names and addresses for public notification.

attached Provide a \$1,000.00 non-refundable processing fee, payable to "City of Austin". If paying by personal check, please include date of birth and driver's license number on the check. This fee was established by Ordinance No. 910110-J (Section 13-1-952) to be paid by all applicants, including governmental entities.

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EXHIBIT D If the area to be vacated was dedicated and recorded by separate instrument, a copy of said instrument must accompany the application.

NA Instructions for Surveyor (see EXHIBIT A). 3-D surveys are required for aerial and subsurface vacations. **RESPONSE: SEE EXHIBIT E FOR SURVEY OF AREA.**

NA Provide copies of any agreements or easements that have either been executed with adjacent landowner(s), or in draft form to be executed.

EXHIBIT F Provide a copy of the Subdivision Plat including Plat Notes.

EXHIBIT G Provide a location map.

EXHIBIT H Provide landowner information, including a copy of the Deed (i.e. Warranty Deed, Special Warranty Deed, General Warranty Deed).

NOTE: The City of Austin will no longer place files on hold indefinitely. Inactive files will be closed and the application fee will be retained by the City if deadlines are not met. These applications shall be considered null and void.

Please schedule an appointment to discuss your vacation request. Appointments may be scheduled for between the hours of 10 a.m. and 4:00 p.m. Please contact:

Eric Hammack, (512) 974-7079, or
Betty Nguyen, (512) 974-7196
landmanagement@austintexas.gov

Submit all applications to:

City of Austin
Office of Real Estate Services
505 Barton Springs Road, Suite 1350
Austin, Texas 78704
Attn: Land Management Division

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EXHIBIT B
RESPONSE TO YOUR REQUEST FOR TRANSMITTED LETTER, QUESTIONS 1 – 20

**BRUSHY STREET VACATION BETWEEN 4TH AND 5TH STREET
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**

Per the 'Policies and Procedures for Requesting Street and Alley Vacations' form, we have responded to your request for transmitted letter questions 1 – 20 below.

1. Is this a residential or commercial project?

Capital Metro Response: No project is being submitted in conjunction with this request.

2. How was the area to be vacated dedicated? By plat or by separate instrument?

Capital Metro Response: By Plat

3. Did the City purchase the area to be vacated? (i.e., by Street Deed)

Capital Metro Response: No

4. Are both the area to be vacated and your property in the same "subdivision"? (They must both be in the same subdivision to be eligible.)

Capital Metro Response: Yes, both properties are within the same subdivision.

5. Is the area to be vacated functional right-of-way, or is it only dedicated on paper?

Capital Metro Response: The Brushy Street right-of-way between 4th and 5th Streets is not a functional right-of-way; it is dedicated only on paper.

6. Are there any utility lines within the area to be vacated? If yes, what are your plans for the utilities? Applicants should be advised that easements will be retained to protect existing utilities, even if utility relocation is proposed. Also be advised that no structures may be built on, over or under the easements without a license agreement, insurance, and annual fee.

Capital Metro Response: There are no utilities or easements within the right-of-way.

7. How do you plan to develop the area to be vacated?

Capital Metro Response: Future development may include both Residential and Retail/Commercial uses which comply with the current Regulating Plan for the Plaza Saltillo TOD Stationary Area Plan.

8. Has a site plan been submitted on your project?

Capital Metro Response: No no project is submitted in conjunction with this request.

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9. Is your project a Unified Development?

Capital Metro Response: NA – no project is being submitted in conjunction with this request.

10. Is your project a S.M.A.R.T. Housing Project?

Capital Metro Response: NA – no project is being submitted in conjunction with this request.

11. When do you anticipate starting construction of the development?

Capital Metro Response: Future development is being contemplated; no project is being submitted in conjunction with this request.

12. What is the current zoning on the adjacent properties?

Capital Metro Response: TOD NP.

13. What is the current status of the adjacent properties?

Capital Metro Response: The properties are undeveloped.

14. What type of parking facilities currently exist?

Capital Metro Response: NA – the adjacent properties are undeveloped.

15. Will your parking requirements increase with the expansion?

Capital Metro Response: NA – No expansion is proposed.

16. How will the increase be handled?

NA – No expansion is proposed.

17. Have any agreements or easements been executed with adjacent landowner(s) or in draft form? If yes, please include this in your letter and provide us with a copy.

Capital Metro Response: No.

18. Does the area to be vacated lie within the Austin Downtown Plan (DAP)? Does it meet DAP criteria?

Capital Metro Response: No, the area to be vacated is not within the boundaries of the Austin Downtown Plan.

19. Does the area to be vacated lie within UT boundaries: East of Lamar Boulevard, west of IH-35, north of Martin Luther King Boulevard, and south of 45th Street?

Capital Metro Response: No it does not lie within the UT boundaries.

20. Does the proposed vacation support the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan? If so, how?

Capital Metro Response: Yes, the proposed vacation is consistent with the Plaza Saltillo Land Use and Design Concept Plan and the Plaza Saltillo Station Area Circulation Concept Plan in the Plaza

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Saltillo TOD. (ref to Exhibit I and Exhibit J). The right of way to be vacated is part of a TOD Mixed Use tract which is part of Cap Metro's Saltillo District Redevelopment Area. The future redevelopment of the tract is consistent with and supports the following Priority Programs and Policy Directives from Imagine Austin:

- 1) Invest in compact and connected Austin: vacation of the right of way will facilitate compact development within the Plaza Saltillo TOD, which seeks to combat urban sprawl and support commuter rail in Austin.***
- 2) Sustainably manage water resources: vacation of the right of way allows for compact development uses the City's water resources more efficiently and economically***
- 3) The proposed vacation will facilitate development within the Plaza Saltillo TOD, which will grow Austin's economy by producing more local jobs, including significant opportunities for local entrepreneurs and local businesses.***
- 4) Development within the Plaza Saltillo TOD is subject to the TOD's Green Infrastructure requirements as set forth in Article 4.9 of the Plaza Saltillo TOD Regulating Plan.***
- 5) The future development of the Plaza Saltillo TOD will provide significant benefits to the local community and Austin in general, including opportunities that will grow and invest in Austin's creative economy.***
- 6) The future development of the Plaza Saltillo TOD will include significant affordable housing opportunities and benefits, primarily through the TOD's density bonus program.***

end

EXHIBIT C
APPLICATION FOR STREET OR ALLEY VACATION

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BRUSHY STREET VACATION BETWEEN 4TH AND 5TH STREET
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

File No. 9479-1502
Department Use Only

DATE: 2-2-15
Department Use Only

TYPE OF VACATION

Type of Vacation: Street: YES	Alley: NO	ROW YES	Hundred Block: 800 and 900
Name of Street/Alley/ROW: BRUSHY STREET		Is it constructed: Yes NO	
Property address: 800 EAST 4TH STREET and 901 EAST 5TH STREET			
Purpose of vacation: TO ALLOW FOR DEVELOPMENT OF PROPERTY			

PROPERTY DESCRIPTION ADJACENT TO AREA TO BE VACATED

Parcel #: 02-0405-09-01; 02-0405-04-01			
Survey & Abstract No.: N/A			
Lot(s): 11 - 12	Block:	Outlot: 1 Division "O"	
Subdivision Name: CENTRAL ROW			
Plat Book V	Page Number 661	Document Number	

Neighborhood Association Name: EAST CESAR CHAVEZ NEIGHBORHOOD PLANNING TEAM
Address including zip code: 78702

RELATED CASES

	FILE NUMBERS
Existing Site Plan (circle one): YES/ NO	_____
Subdivision: Case (circle one): YES/ NO	_____
Zoning Case (circle one): YES/ NO	_____

PROJECT NAME, if applicable:

Name of Development Project: N/A
Is this a S.M.A.R.T. Housing Project (circle one): YES/ NO
Is this within the Downtown Austin Plan Boundaries (circle one): YES / NO

OWNER INFORMATION

Name: CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY (as shown on Deed)			
Address: 2910 EAST FIFTH STREET	Phone: (512) - 477-1200	Fax No.: () _____	
City: AUSTIN	County: TRAVIS	State: TEXAS	Zip Code: 78702
Contact Person/Title: RUSSELL BAUER	Cell Phone: (512) 699-4242		
Email Address: RUSSELL.BAUER@CAPMETRO.ORG			
(If multiple owners are joining in this request, complete names and addresses for each must be attached.)			

APPLICANT INFORMATION

Name: **RUSSELL BAUER**
Firm Name: **CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**
Address: **2910 EAST FIFTH STREET**
City: **AUSTIN** State: **TEXAS** Zip Code: **78702**
Office No.: **(512) 389-7853** Cell No.: **(512) 699-4242** Fax No.: () _____
EMAIL ADDRESS: **RUSSELL.BAUER@CAPMETRO.ORG**

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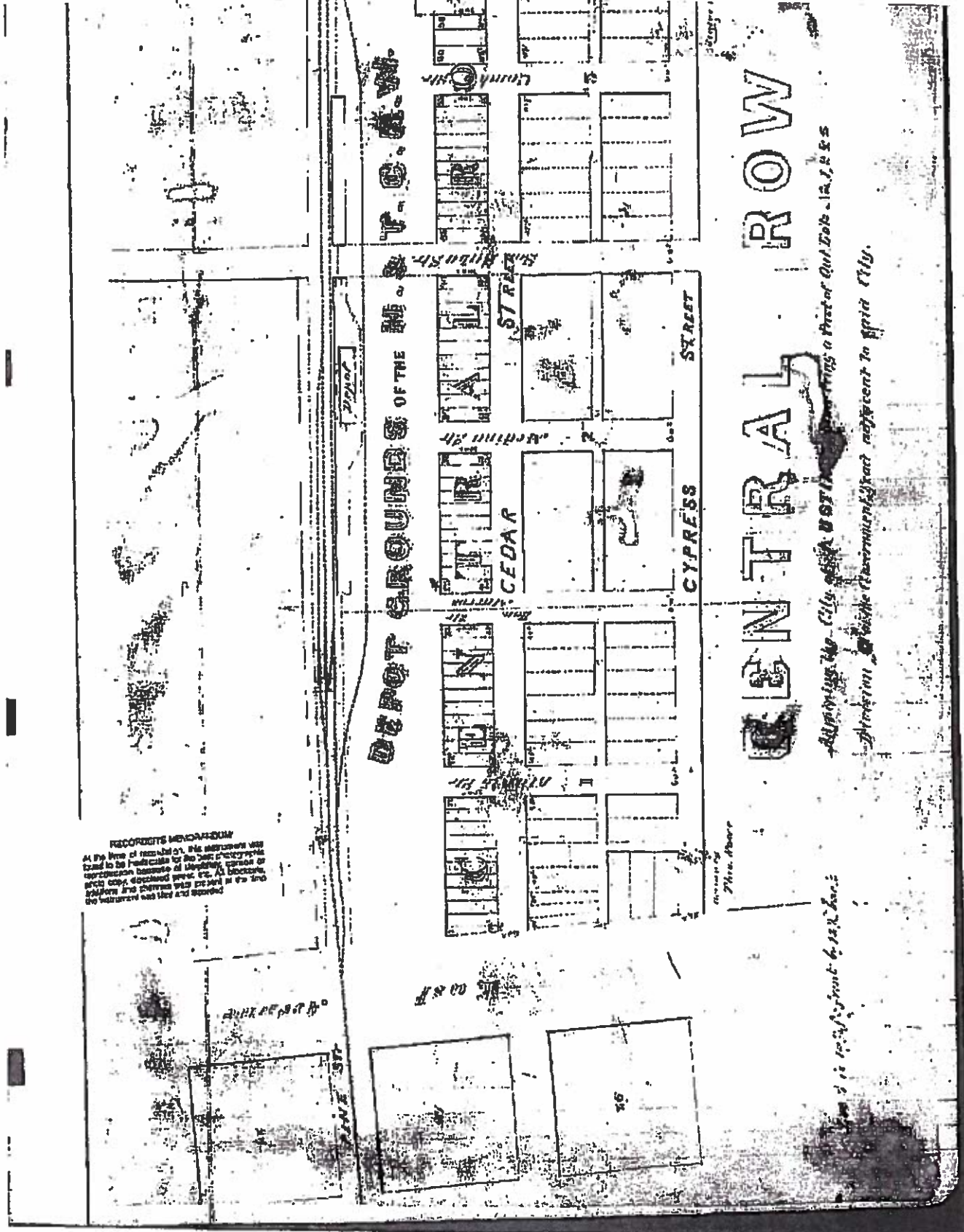
The undersigned Landowner/Applicant understands: 1) This application will be handled in accordance with standard City policies and procedures. 2) No action will be taken without (a) payment of the nonrefundable application fee, or (b) necessary documentation. 3) The application and fee in no way obligate the City to vacate the subject area. 4) All documents related to this transaction and a certified check for the appraised value must be delivered to the City of Austin prior to placing the item on the Council Agenda for final approval.

Signed By: 
Landowner/Applicant

EXHIBIT F
 SUBDIVISION PLAT; BK. V, PG. 661 CENTRAL ROW

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BRUSHY STREET VACATION BETWEEN 4TH AND 5TH STREET
 CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY



RECORDS MEMORANDUM
 At the time of recording, the agreement was found to be in violation of the best photographic reproduction because of illegible names or other copy, corrected where it is. All blocks, sections and shares were present in the plat and returned was filed and recorded.

CENTRAL ROW

At the time of recording, the agreement was found to be in violation of the best photographic reproduction because of illegible names or other copy, corrected where it is. All blocks, sections and shares were present in the plat and returned was filed and recorded.

Texas County, Texas