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CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, October 12, 2015

CASE NUMBER: C15-2015-0141

☐ Y ☐ Brooke Bailey
☐ Y ☐ Michael Benaglio
☐ Y ☐ William Burkhardt -2nd the Motion
☐ N/A ☐ Eric Goff
☐ Y ☐ Vincent Harding
☐ Y ☐ Melissa Hawthorne - Motion to PP to 11/9/15
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Melissa Neslund
☐ Y ☐ James Valadez
☐ OUT ☐ Michael Von Ohlen

APPLICANT: Michele R. Lynch

OWNER: Scott Trainer

ADDRESS: 1402,1412,1414 West OLTORF ST and 2043 South Lamar Blvd.

VARIANCE REQUESTED: The applicant has requested variance(s) to Section 25-2-1063 (Height Limitations and Setbacks for Large Sites) of Article 10, Compatibility Standards:

(1) (B) to decrease the distance that a structure can be constructed from property on which a use permitted in an SF-5 or more restrictive zoning district is located from 25 feet (required) to 5 feet for a driveway on 1404, 1412 and 1414 West Oltorf (requested); and to

(2) (C) (1) (b) to increase the maximum height limitation from 2 stories and 30 feet on the portion of the building that is 50 feet or less from a use permitted in a SF-5 or more restrictive zoned property (required/permitted) to 1 story and 45 feet 6 inches for a building on 1414 West Oltorf and to increase the maximum height limitation from 2 stories and 30 feet on the portion of the building that is 50 feet or less from a use permitted in an SF-5 or more restrictive zoned property (required/permitted) to 4 stories and 55 feet 6 inches for a building on 1404 and 1412 West Oltorf (requested); and to

(3) (C) (2) (b) to increase the maximum height limitation from 3 stories and 40 feet on the portion of the building that is more than 50 feet and not more than 100 feet from a use permitted in an SF-5 or more restrictive zoned property (required/permitted) to 2 stories and 55 feet 6 inches for a building on 1414 West Oltorf and to increase the maximum height limitation from 3 stories and 40 feet on the portion of the building that is more than 50 feet and not more than 100 feet

from a use permitted in an SF-5 or more restrictive zoned property (required/permitted) to 4 stories and 55 feet 6 inches for a building on 1404 and 1412 West Oltorf (requested); and to

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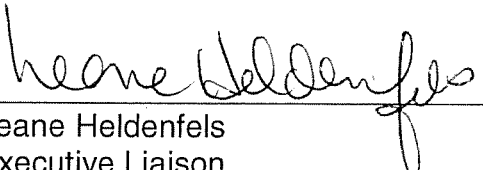
(4) (C) (3) to increase the maximum height limitation from 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive (required/permitted) to 55 feet six inches for a portion of the building on 1404, 1412 and 1414 West Oltorf (requested)

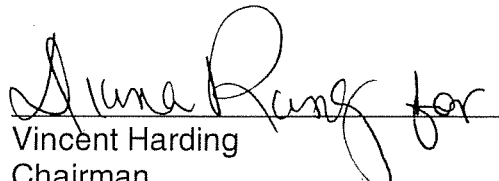
in order to construct a commercially mixed use building and related parking facility in a "CS-MU-V-CO", Community Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay and "CS-CO", Community Commercial – Conditional Overlay zoning district.

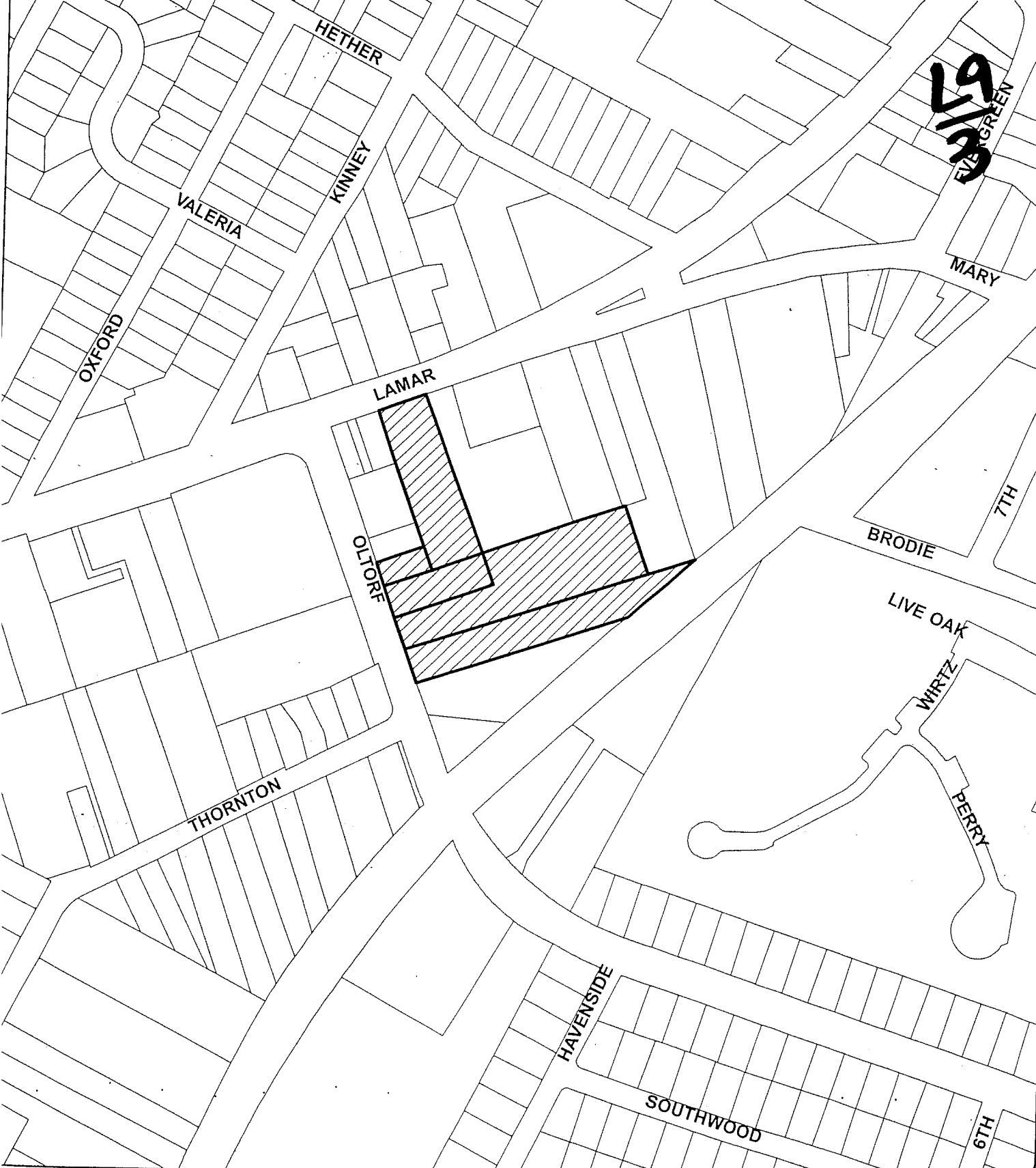
BOARD'S DECISION: POSTPONED TO NOVEMBER 9, 2015 BY APPLICANT




FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


Leane Heldenfels
Executive Liaison


Vincent Harding
Chairman



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

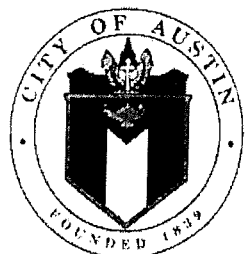
CASE#: C15-2015-0141
1402, 1412, 1414 W OLTORF &
2043 S LAMAR

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.



1" = 292'



CASE # _____
ROW # _____

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**CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE**

WARNING: Filing of this appeal stops all affected construction activity.

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED
INFORMATION COMPLETED.**

STREET ADDRESS: 1404, 1412, 1414 West Oltorf & 2043 South Lamar Boulevard

LEGAL DESCRIPTION: Subdivision – See Attached.

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Michele Rogerson Lynch on behalf of myself/ourselves as authorized agent for
Jstrain, LLC affirm that on _____, _____,

hereby apply for a hearing before the Board of Adjustment for consideration to:

X ERECT _____ ATTACH _____ COMPLETE _____ REMODEL _____ MAINTAIN

A commercially mixed use building that consists of uses related to a market-style-
development that includes a brew pub, local food purveyors and offices with structured
parking.

in a CS-MU-V-CO and CS-CO district (Note: Pending Zoning Case on file to
change to CS-MU-CO and CS-1-CO).
(zoning district)

The specific variances are:

A) From CS Lot with SF Use (1416 West Oltorf):

1. 25-2-1063(B): Allow for a driveway to be less than 25', but not less than 5' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Blue on the attached exhibit represents a request of a 5' setback;
2. 25-2-1063(c)(1)(b): Allow for a 45'6" 1 story building (instead of 30' and 2 story) that is located 50' or less from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house)

is located. The variance area in Pink on the attached exhibit represents a request of an additional 15'6" in height; and

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3. 25-2-1063(c)(2)(b): Allow for a 55'6" 2 story building (instead of 40' and 3 stories) that is located 50'-100' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Orange on the attached exhibit represents a request of an additional 15'6" in height.

B) From CS Lot with SF Use (1400 and 1402 West Oltorf):

1. 25-2-1063(B): Allow for a driveway to be less than 25', but not less than 5' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Blue on the attached exhibit represents a request of a 5' setback;
2. 25-2-1063(c)(1), (b): Allow for a 55'6" 4 story structured parking garage (instead of 30' and 2 story) that is located 50' or less from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Pink on the attached exhibit represents a request of an additional 25'6" in height, 2 additional stories; and
3. 25-2-1063(c)(2)(b): Allow for a 55'6" 4 story structured parking garage (instead of 40' and 3 story) from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Orange on the attached exhibit represents a request of an additional 15'6" in height, 1 additional story.

C) From SF-3 City of Austin Owned Lot (West Oltorf):

1. 25-2-1063(c)(3): to allow for portions of a structured parking garage and building to be 55'6" (instead of 48') to be located 100-300' away from property zoned as SF-5 or more restrictive [City of Austin owned (and in floodplain)]. The variance areas shown in Red on the attached exhibit represent a request of an additional 7'6" in height.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

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REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The compatibility restrictions relate mostly to commercially zoned properties on a major thoroughfare that are currently occupied by single family uses, and a City of Austin owned undeveloped parcel in the floodplain that unnecessarily limit development on the Property.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

Two commercially zoned properties are triggering compatibility due to existing single family uses that will eventually vacate and by a City of Austin owned SF-3 undeveloped parcel that is within the floodplain next to a railroad track that may be slated for future ROW and not for single family development.

Additionally, the site is encumbered by significant floodplain and trees, which leaves a smaller footprint for development of a desired mixed-use project that includes structured parking to help assist with the area's existing parking issues. Inherently, the project must go more vertical, which is hindered by the subject properties unnecessarily triggering compatibility. Similarly, the lot configuration is such that the standard size for structured parking cannot fit on the remaining portion of the lot that is not affected by the lots triggering compatibility.

- (b) The hardship is not general to the area in which the property is located because:

The majority of the area is zoned commercial, but not all properties are affected as significantly by the triggering properties. It is also the understanding from the owners of the two triggering properties that the single family uses are short term rentals, which could easily convert to commercial use in the future, due to the existing commercial zoning (see attached support letters from these owners).

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

PARKING: (Additional criteria for parking variances only.)

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Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

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NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address 221 W. 6th Street, Ste.1300
City, State & Zip Austin, TX 78701

Printed Michele Rogerson Lynch, Metcalfe Williams, LLP Phone 512.404.2251 Date _____

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Mail Address 900 Blue Bonnet Lane
City, State & Zip Austin, Texas 78704

Printed Scott Trainer, Managing (Member for Jstrain, LLC) Phone 512.965.1369
Date _____



METCALFE WOLFF
STUART & WILLIAMS, LLP
Attorneys at Law

MICHELE R. LYNCH
512.404.2251
mlynch@mwswtexas.com

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October 26, 2015

Via E-Mail

Chair William Burkhardt and
Board of Adjustment Members
c/o Leane Heldenfels
City of Austin Development Services Dept.
505 Barton Springs Road, 1st Floor
Austin, Texas 78704

Re: **PREVIOUSLY ITEM NO. M-6**, before Board of Adjustment on
November 9, 2015: C15-2015-0141; Michele R. Lynch for Scott Trainer 1402, 1412, 1414
W. Oltorf Street and 2043 S. Lamar Blvd.

Dear Chair Burkhardt and Board of Adjustment Members:

Since the last Board of Adjustment hearing, we have finalized our agreements with the Zilker Neighborhood Association as noted in the attached letter, with the additional clarification below:

Restoration and enhancement of the creek and floodplain. Mr. Trainer is working with the Watershed Protection Department (WPDR) on options to be handled with the site plan for restoration and enhancement of the creek and floodplain, to assist with erosion control, to preserve existing trees, and to secure public access according to the considerations below as discussed with the WPDR:

- Infiltration into the floodplain area to assist with tree and other vegetation improvement/preservation. This can best be accomplished by avoiding concentrated discharge from water quality/detention, and use methods to spread out released flows. We discussed options such as the use of a trench system from the detention and water quality outlet pipes in the floodplain/CWQZ - as opposed to a berm system, which is not readily allowed in the floodplain/CWQZ. The trench system may include appropriately sized rocks in the trenches based on creek flow velocity to assist with slowing released water, and allowing released water to spread out to avoid concentrated discharge.
- Use of rain gardens as opposed to detention to assist with vegetation development throughout project, but discussed that the high percent of pervious cover on this project achieves the same objective.



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- Increase understory species in the floodplain. Careful selection of appropriate species should be considered given the dense upper-story canopy. Consideration for drought tolerant, native species to assist with the already diversification of species in the creek area.
- Removal of invasive species - particularly Nandina, bamboo, Ligustrum and Photinia.
- Increase landscape areas in the development. We explained the areas that we're already adding additional landscaping.
- With new landscaping, grade the site where possible to increase natural watering from runoff vs. only relying on sprinkler system.
- The addition of a trail for public access within the creek floodplain/CWQZ can be carefully included, such that it does not conflict with these restoration and enhancement measures.

If you have any questions or need additional information, please feel free to call me.

Sincerely,

Michele R. Lynch

MRL:kw
Enclosures

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Zilker Neighborhood Association

♦ 2009 Arpdale ♦ Austin, TX 78704 ♦ 512-447-7681 ♦

October 6, 2015

To: Board of Adjustment

From: Zilker Neighborhood Association Executive Committee

Re: C15-2015-0141, variance request at 1414 Oltorf

ZNA position on Oltorf Market (1412 Oltorf site plan) variances, Oct 2015

The ZNA Zoning Committee has been meeting with Mr. Trainer for the last year to work out details of ZNA's support for his proposal to rezone and redevelop 1414 Oltorf and his adjacent properties. Discussions are ongoing on the rezoning case, but we are prepared to report to the Board of Adjustment that the ZNA Executive Committee does not oppose the variances requested in Case No. C15-2015-0141, based on the understandings described below.

Over the last 18 years, ZNA has negotiated several rezoning agreements resulting in conditional overlays or other restrictions affecting these properties. They include Mr. Trainer's properties at 1414 Oltorf in 2011, 1412 Oltorf in 1997, and 2043 S. Lamar in 2005 and again in 2008 (ZNA's Vertical Mixed Use overlay), and the Rock N Roll Rental site at 1420 Oltorf in 2004. The ZNA Zoning Committee's primary concern is to see these existing agreements substantially preserved.

A. Variances from setbacks at 1416 Oltorf

The cases in 2011, 2005, and 2004 involved compatibility issues triggered by the residential use at 1416 Oltorf, the same property triggering the driveway and height variances requested here. In response to ZNA's requests, Mr. Trainer has agreed to several changes in his original plan that will mitigate these compatibility issues and help to preserve the intent of our previous agreements.

Chief among these changes are:

Withdrawal of request for CS-1 zoning to allow a cocktail lounge use on the property.

A prohibition on late-hours alcohol sales, which should reduce late-night car traffic on the driveway adjacent to the residential use. Besides the effect on residents at 1416 Oltorf, the increase in late-night traffic created by cocktail lounge uses and alcohol sales after midnight would exacerbate problems experienced by residents south of Oltorf, east of the creek, and west of South Lamar.

A prohibition on live outdoor amplified music within the compatibility setbacks. In the existing restrictive covenant with the City, from the 2011 case, the first restriction is "Live

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outdoor amplified music is prohibited on the Property." We do not expect that prohibition to be extended to the entire new project. However, prohibiting live outdoor amplified music to the east and north of 1416 Oltorf would protect residents west of South Lamar as well as residents at 1416 Oltorf. At this writing, we are negotiating the boundaries of the area of prohibition. Mr. Trainer has agreed that *outdoor music applications elsewhere on the property will not exceed the terms currently in effect for the rest of the neighborhood: 70 decibels, with cutoff times of 8 p.m. Sunday-Thursday and 10 p.m. Friday-Saturday.*

Installation of improved screening (trees) on the side and back of 1416 Oltorf.

Again, this reflects the intent of the restrictive covenant negotiated in 2011 and code requirements for "a fence, berm, or dense vegetation . . . to screen adjoining properties from views of parking."

Use of superior streetscape and commercial design standards on the Oltorf frontage.

Mr. Trainer is proposing to meet the design standards required on South Lamar (wider sidewalks with street trees and more landscaping) on the Oltorf side of the project. These design standards reflect the intent of our previous agreements at 1420 Oltorf in 2004, as well as the agreement at 1414 Oltorf in 2011.

Preservation of the existing impervious cover limit of 90% within the compatibility setback. The 2011 conditional overlay for 1414 Oltorf limits impervious cover to 90%. Mr. Trainer has made adjustments to his new site plan to insure that impervious cover within the compatibility setback does not exceed 90%.

Restoration and enhancement of the creek and floodplain. Mr. Trainer will work with the Watershed Protection Department on options for restoration and enhancement of the creek and floodplain to prevent erosion, preserve existing trees, and secure public access according to best practices developed by the Watershed Protection Department.

Prohibition of certain uses. The 2011 conditional overlay for 1414 Oltorf prohibits "drive-in service use as an accessory use to a commercial use." That conditional overlay and the 2005 conditional overlay for 2043 South Lamar also contain lists of prohibited uses. Mr. Trainer is working with the Zoning Committee to update and consolidate the lists of prohibited uses to be included in a new CO. At this writing, the list of uses being reviewed includes:

- | | |
|----------------------------------|--|
| Adult oriented businesses | Drop-off recycling collection facility |
| Agricultural sales and services | Equipment sales |
| Automotive rentals | Equipment repair services |
| Automotive repair services | Exterminating services |
| Automotive sales | Funeral services |
| Automotive washing (of any type) | Kennels |
| Bail bond services | Laundry services |
| Campground | Limited warehousing and distribution |
| Construction sales and services | Outdoor entertainment |
| Convenience storage | |

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Outdoor sports & recreation
Pawn shop services
Plant nursery
Scrap and salvage services

Service station
Vehicle storage
Veterinary services

B. Variances from setbacks at 1402 Oltorf

The Zoning Committee is taking no position on variances triggered by the residential use at 1402 Oltorf. The owner at 1402 Oltorf applied for a variance earlier this year to redevelop the site with commercial uses; at that time it was clear that the site would be redeveloped as soon as Mr. Trainer's SF3 property is rezoned. We leave it to the property owners to agree to end their respective residential uses within a certain amount of time after the SF-3 parcel is rezoned to CS. That would remove the need for a variance.

C. Variance from setback at City-owned SF-3 property

The triangle of City-owned property at the railroad tracks is still zoned SF-3. That zoning creates a compatibility setback requirement. ZNA's interest in the property is that it remain available for future greenbelt access and public use. Of course, it will have little value as greenbelt access if Bouldin Creek's potential as a greenbelt is destroyed by adjacent overdevelopment. Mr. Trainer's project is attractive to ZNA because it appears to have the resources to protect the floodplain and urban forest, and Mr. Trainer is willing to work with the City and ZNA to establish precedents and a high standard for creek and forest protection, as described under "Restoration and enhancement of the creek and floodplain."

(signed)

Lorraine Atherton,

ZNA Zoning Committee member, on behalf of the ZNA Executive Committee

P.S. Regarding 2043 S. Lamar (Olivia parcel): The vertical mixed use overlay on 2043 S. Lamar has dimensional standards and parking reduction to 60%, along with the maximum affordable housing requirement, all of which ZNA wants to maintain. The VMU properties between Oltorf and W. Mary represent a significant part of ZNA's contribution to Austin's comprehensive plan, and the entire VMU proposal for South Lamar was approved by the general membership.

July 8, 2015

Re: Variance & rezoning request for 1404-1412-1414 Oltorf 78704

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To Whom It May Concern:

My name is Kary Aycock and I own 1402 and 1400 Oltorf, adjacent to the east of the land described above. My property is zoned CS but we currently have residential use (and tenants) there.

I have met with Mr. Scott Trainer about his plans for the property and **I am in agreement that his proposed development is compatible with the area and will provide community benefit. I am not opposed to granting the requested zoning and variance requests to these parcels.**

Further, the current residential use at 1404 Oltorf is inhibiting my ability to develop my property within its current zoning, as reflected in our previous variance request. I would hope that any changes granted to Mr. Trainer's property would also encourage the board to grant our variance (if still required) and remove our residential use compatibility setback at 1402 and 1400 West Oltorf.

Cheers,



Kary Aycock
Managing Member, 1402 West Oltorf LLC
512-619-7131

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SF-3

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CS-4

Sf-3

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CS

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SF-3

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Proposed
CSI-COProposed
CS-MU-CO

CS-MU
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CS-4

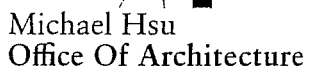
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CS-4

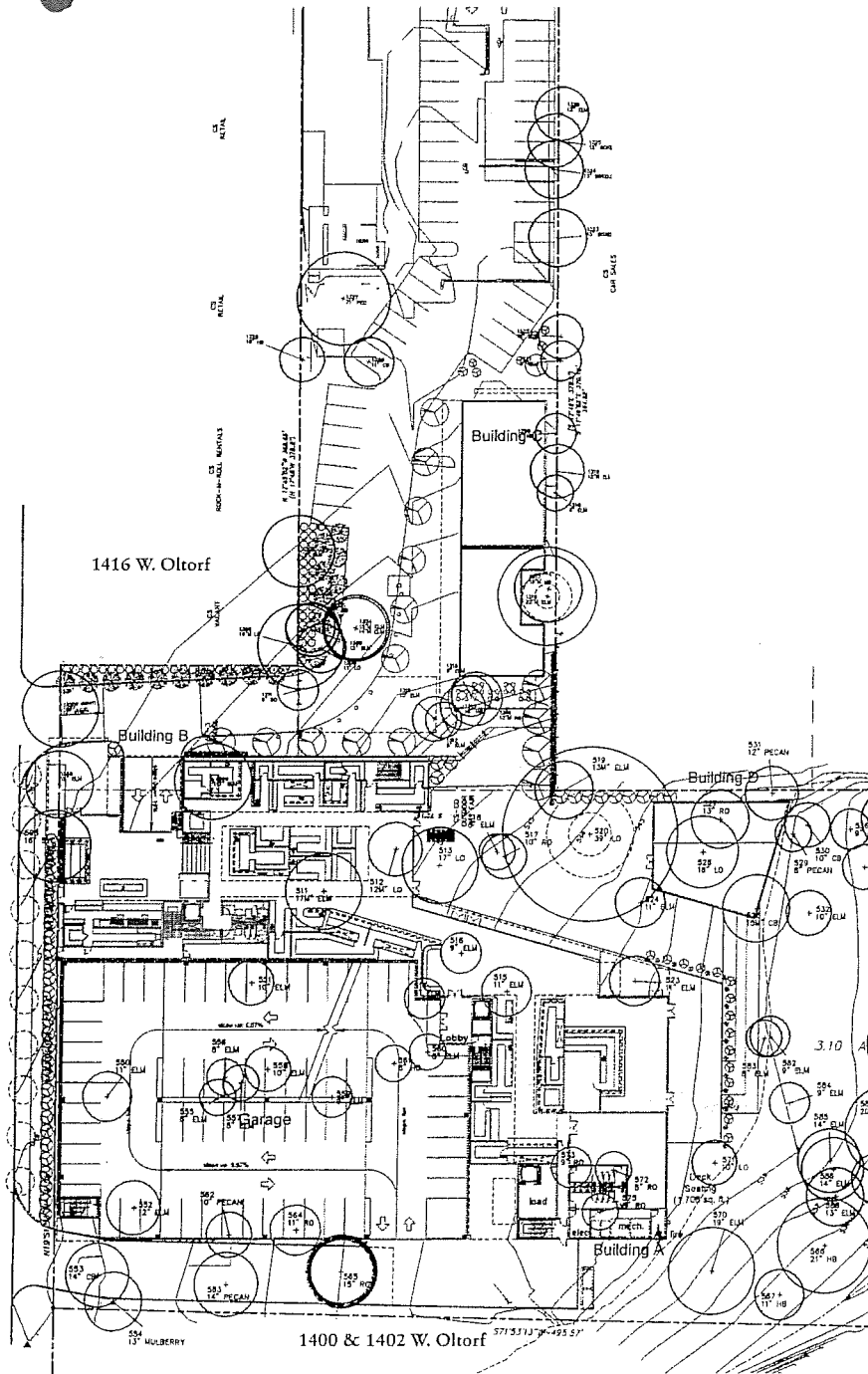
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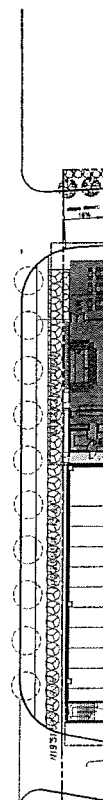
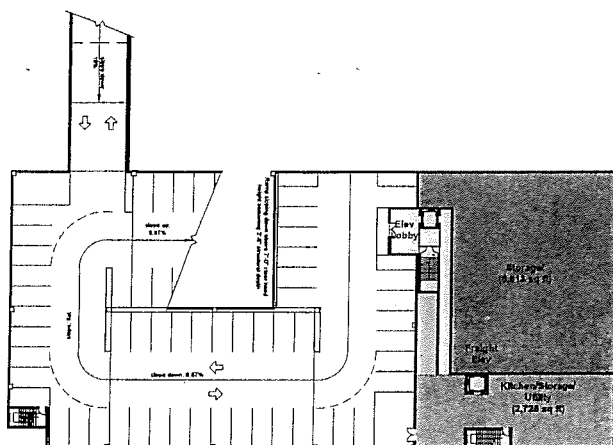
OLTORF STREET
(R.O.W. YARDS)

WEST OLTORF STREET



Michael Hsu
Office Of Architecture

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Program Plan: LVL 0
scale: 1/64" = 1'-0"

Contact

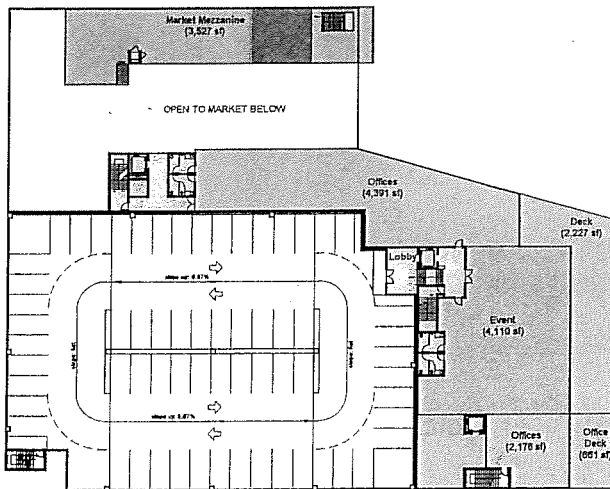
Client

Michael Hsu
Office Of Architecture

4910 Burner Road
Austin, Texas 78756
(512) 706.4303

Market

6/19



Program Plan: LVL 2
scale: 1/64" = 1'-0"

Onwards

Close

Michael Hsu
Office Of Architecture

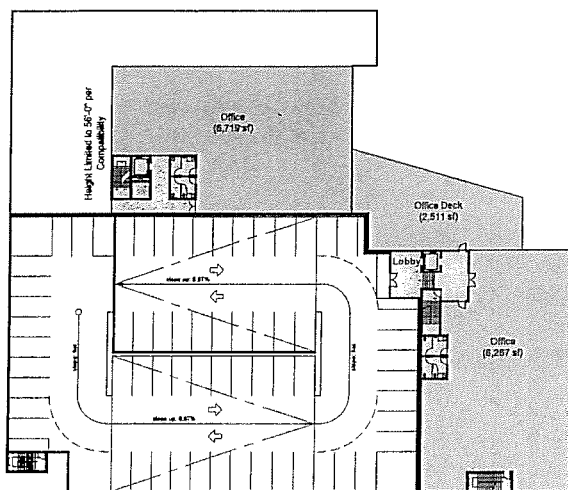
4910 Burnet Road
Austin, Texas 78756
(512) 706.4303

Market

PARKING ANALYSIS

Total Required Parking	547.2
Required parking with 20% Discount	437.725
Required parking with 30% Discount	383.01
Required Parking with 40% Discount	328.3
On Site Parking Provided	43
Garage:	383
Level0 (underground)	69
Level1	62
Level2	68
Level3	68
Level 4	68
Rooftop Parking	48
Total Parking Provided	426

29/20



Program Key

- Food Prep
- Event
- Storage
- Mechanical
- Circulation
- Restaurant
- Retail
- Office

Program Plan: LVL 4
scale: 1/64" = 1'-0"

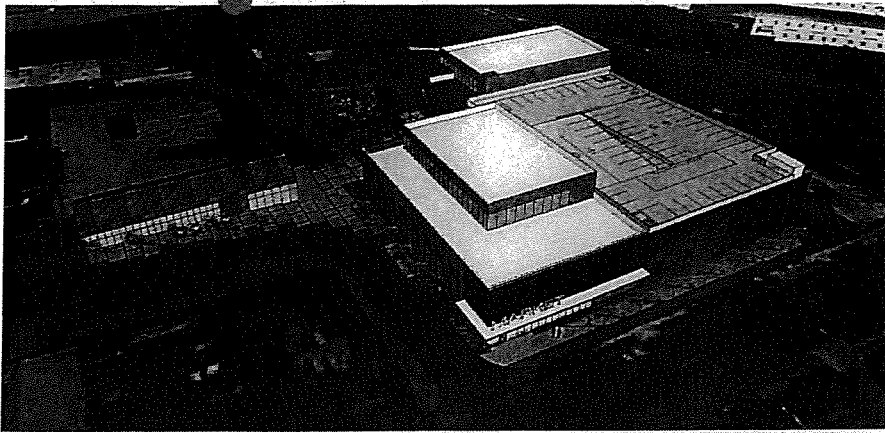
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Client

Michael Hsu
Office Of Architecture

4910 Burnet Road
Austin, Texas 78756
(512) 706.4303

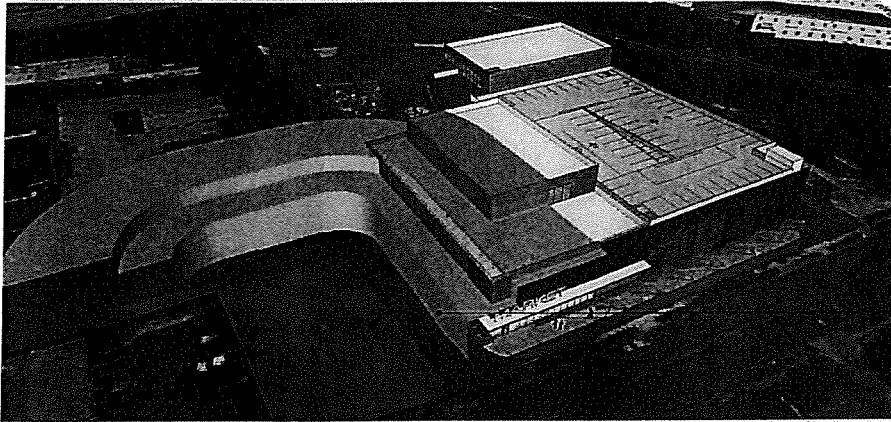
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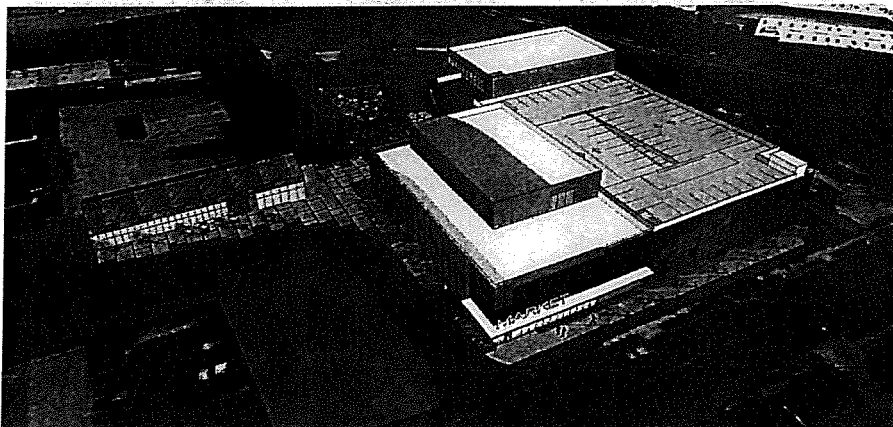
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Fourth Story
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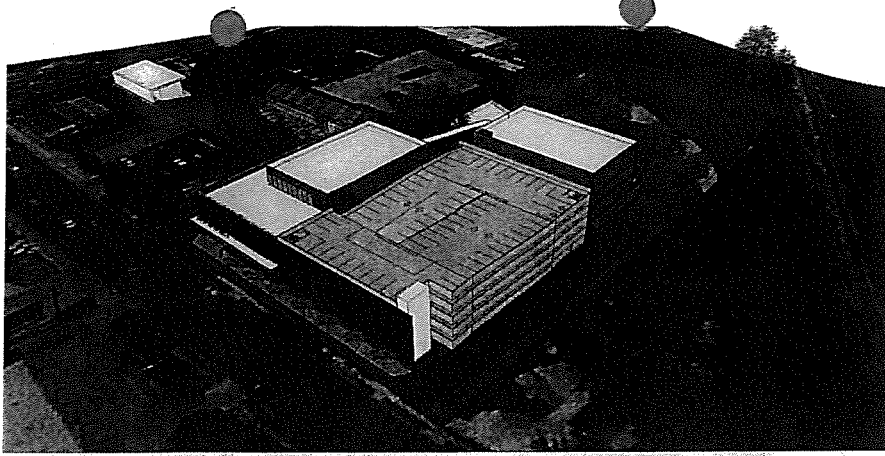
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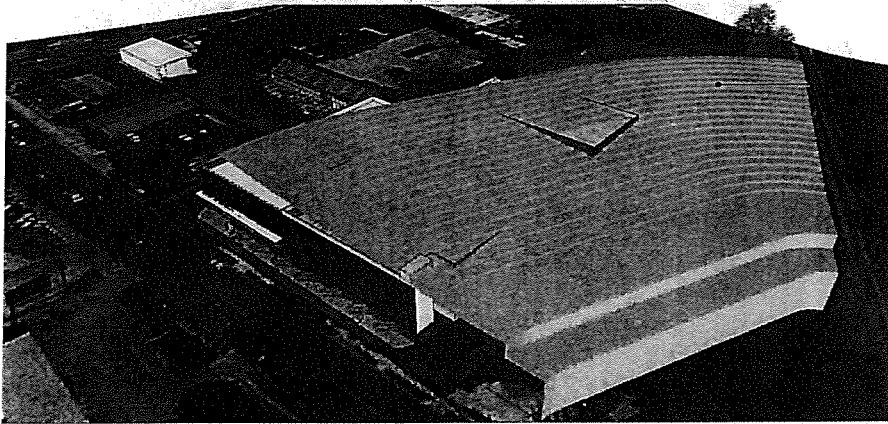
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Michael Hsu
Office Of Architecture

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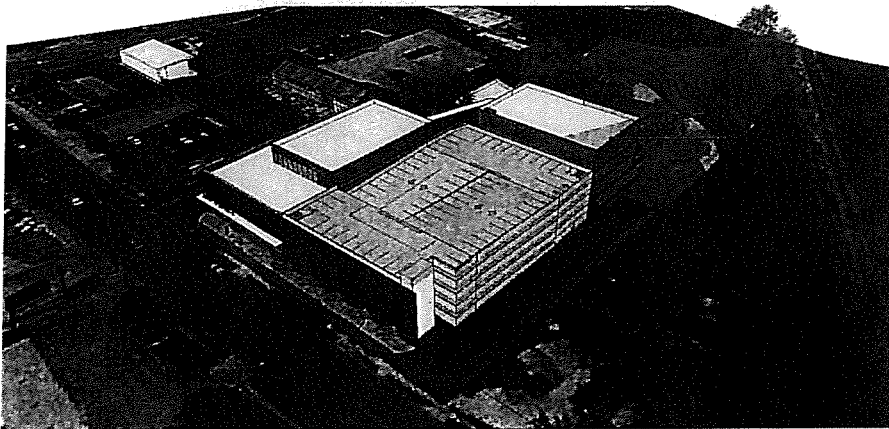
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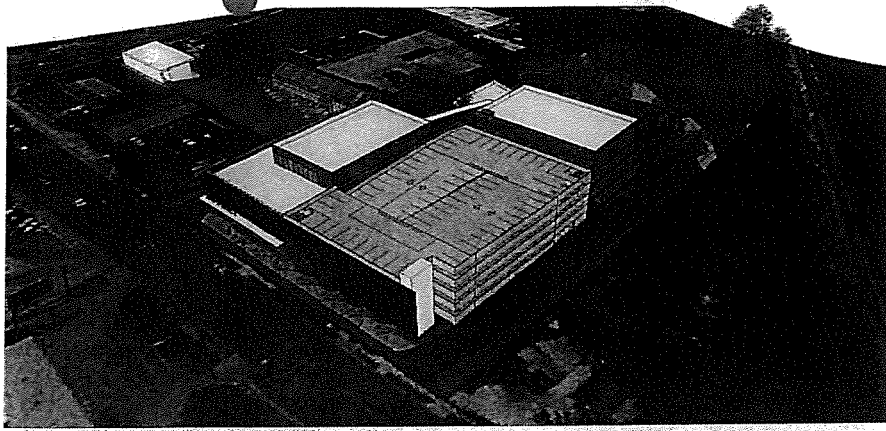
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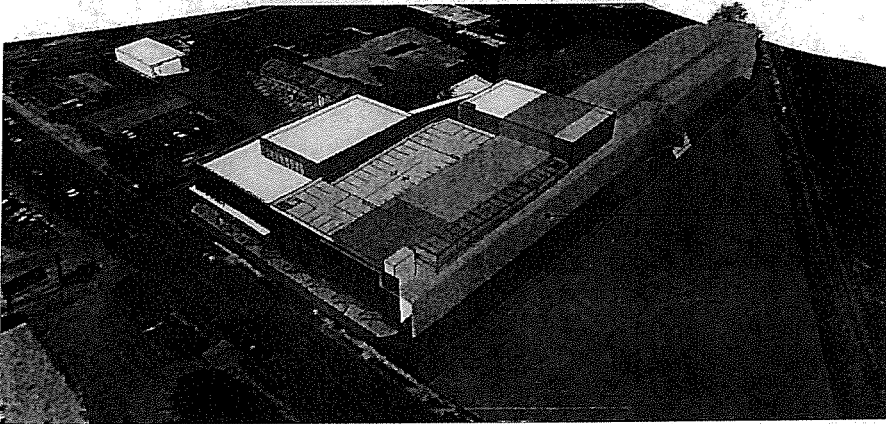


Portion of bu
height limitat

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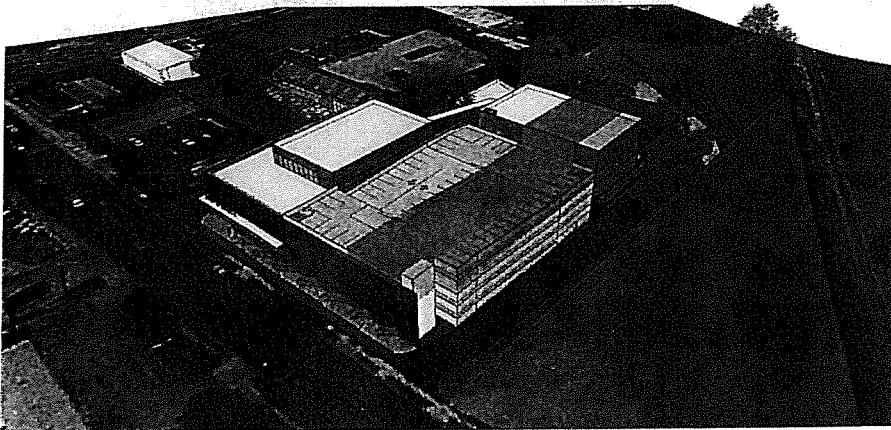
Fourth Story
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CRASHOUT

CRASH

Michael Hsu
Office Of Architecture

4910 Burnet Road
Austin, Texas 78756
(512) 706.4303

Market

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Client

Client

Michael Hsu
Office Of Architecture

4910 Burnet Road
Austin, Texas 78756
(512) 706.4303

Market

L9
26



Context

Close

Michael Hsu
Office Of Architecture

4910 Burnet Road
Austin, Texas 78756
(512) 706.4303

Market

See Revised

CASE # C15-2015 0141
ROW # 11412717 +
Roll 6401061304 + 314 + 307
+ 306

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CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 1404, 1412, 1414 West Oltorf & 2043 South Lamar Boulevard

LEGAL DESCRIPTION: Subdivision – See Attached.

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Michele Rogerson Lynch on behalf of myself/ourselves as authorized agent for

Jstrain, LLC affirm that on _____, _____,

hereby apply for a hearing before the Board of Adjustment for consideration to:

X ERECT _____ ATTACH _____ COMPLETE _____ REMODEL _____ MAINTAIN

A commercially mixed use building that consists of uses related to a market-style development that includes a brew pub, local food purveyors and offices with structured parking.

in a CS-MU-V-CO and CS-CO district (Note: Pending Zoning Case on file to change to CS-MU-CO and CS-1-CO).
(zoning district)

The specific variances are:

A) From CS Lot with SF Use (1416 West Oltorf):

1. 25-2-1063(B): Allow for a driveway to be less than 25', but not less than 5' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Blue on the attached exhibit represents a request of a 5' setback;
2. 25-2-1063(c)(1)(b): Allow for a 45'6" 1 story building (instead of 30' and 2 story) that is located 50' or less from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house)

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is located. The variance area in Pink on the attached exhibit represents a request of an additional 15'6" in height; and

3. 25-2-1063(c)(2)(b): Allow for a 55'6" 2 story building (instead of 40' and 3 stories) that is located 50'-100' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Orange on the attached exhibit represents a request of an additional 15'6" in height.

B) From CS Lot with SF Use (1400 and 1402 West Oltorf):

1. 25-2-1063(B): Allow for a driveway to be less than 25', but not less than 5' from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Blue on the attached exhibit represents a request of a 5' setback;
2. 25-2-1063(c)(1), (b): Allow for a 55'6" 4 story structured parking garage (instead of 30' and 2 story) that is located 50' or less from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Pink on the attached exhibit represents a request of an additional 15'6" in height and 2 stories; and
3. 25-2-1063(c)(2)(b): Allow for a 55'6" 4 story structured parking garage (instead of 40' and 3 story) from property zoned CS on which a use permitted in an SF-5 or more restrictive zoning district (single family rent house) is located. The variance area in Orange on the attached exhibit represents a request of an additional 15'6" in height and 1 story.

C) From SF-3 City of Austin Owned Lot (West Oltorf):

1. 25-2-1063(c)(3): to allow for portions of a structured parking garage and building to be 53'6" (instead of 43') to be located 100-300' away from property zoned as SF-5 or more restrictive [City of Austin owned (and in floodplain)]. The variance areas shown in Red on the attached exhibit represent a request of an additional 12'6" in height.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

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REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The compatibility restrictions relate mostly to commercially zoned properties on a major thoroughfare that are currently occupied by single family uses, and a City of Austin owned undeveloped parcel in the floodplain that unnecessarily limit development on the Property.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

Two commercially zoned properties are triggering compatibility due to existing single family uses that will eventually vacate and by a City of Austin owned SF-3 undeveloped parcel that is within the floodplain next to a railroad track that may be slated for future ROW and not for single family development.

Additionally, the site is encumbered by significant floodplain and trees, which leaves a smaller footprint for development of a desired mixed-use project that includes structured parking to help assist with the area's existing parking issues. Inherently, the project must go more vertical, which is hindered by the subject properties unnecessarily triggering compatibility. Similarly, the lot configuration is such that the standard size for structured parking cannot fit on the remaining portion of the lot that is not affected by the lots triggering compatibility .

- (b) The hardship is not general to the area in which the property is located because:

The majority of the area is zoned commercial, but not all properties are affected as significantly by the triggering properties. It is also the understanding from the owners of the two triggering properties that the single family uses are short term rentals, which could easily convert to commercial use in the future, due to the existing commercial zoning (see attached support letters from these owners).

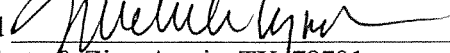
AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

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APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 221 W. 6th Street, Ste. 1300
City, State & Zip Austin, TX 78701

Printed Michele Rogerson Lynch, Metcalfe Williams, LLP Phone 512.404.2251 Date 7-31-15

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 900 Blue Bonnet Lane
City, State & Zip Austin, Texas 78704

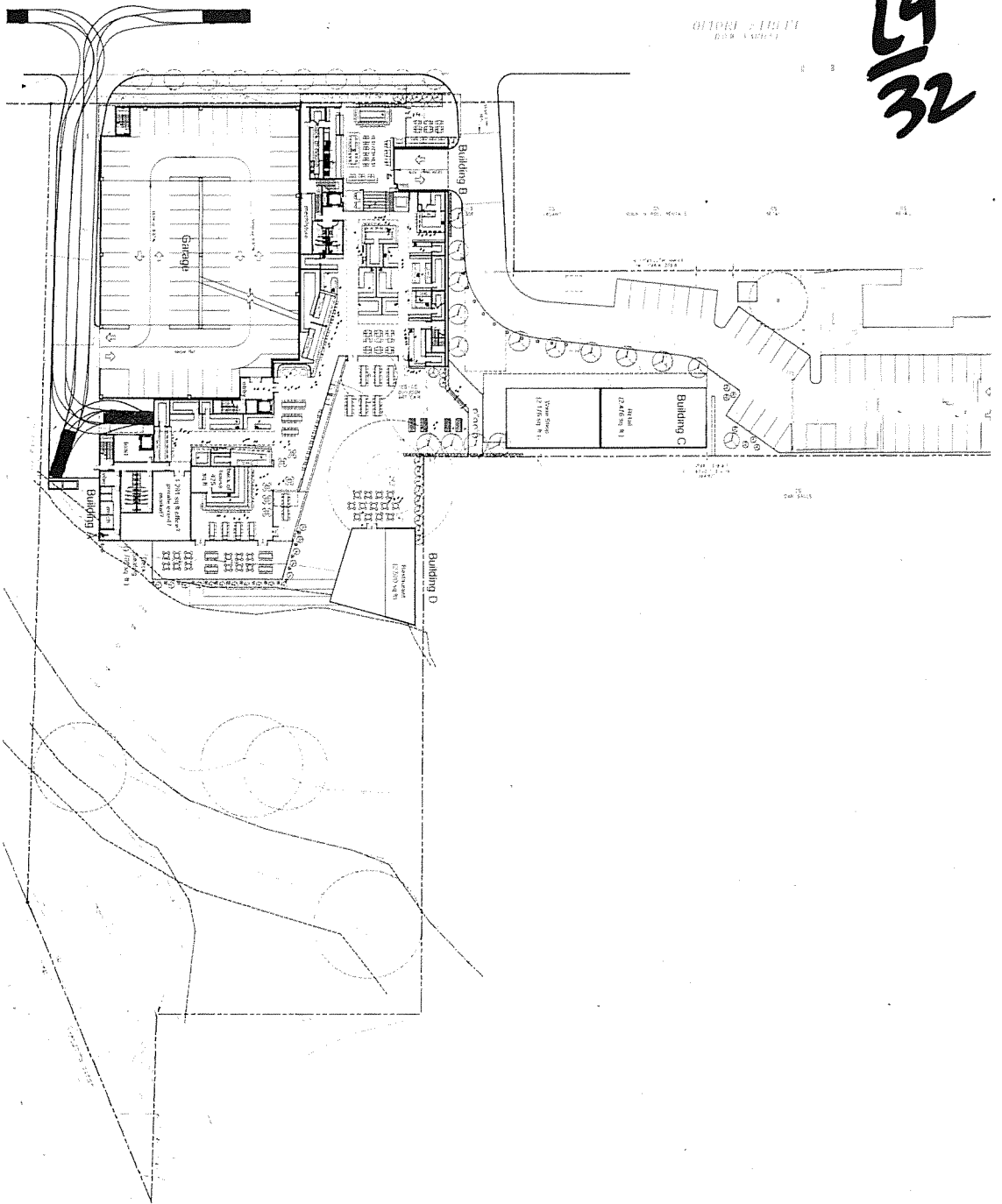
Printed Scott Trainer, Managing (Member for Jstrain, LLC) Phone 512.965.1369
Date 7-28-15

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Property Description	
Tract #	Subdivision Reference
303111	1.0790 AC OF LOT 13 BLK 1 FREDERICKSBURG ROAD ACRES
303121	1.6580 AC OF LOT 12 BLK 1 FREDERICKSBURG ROAD ACRES
303120	0.3790 AC OF LOT 12 BLK 1 FREDERICKSBURG ROAD ACRES
303113	S 56 FT LOT 11 BLK 1 FREDERICKSBURG ROAD ACRES
303112	LOT 10 *LESS N 15FT BLK 1 FREDERICKSBURG ROAD ACRES

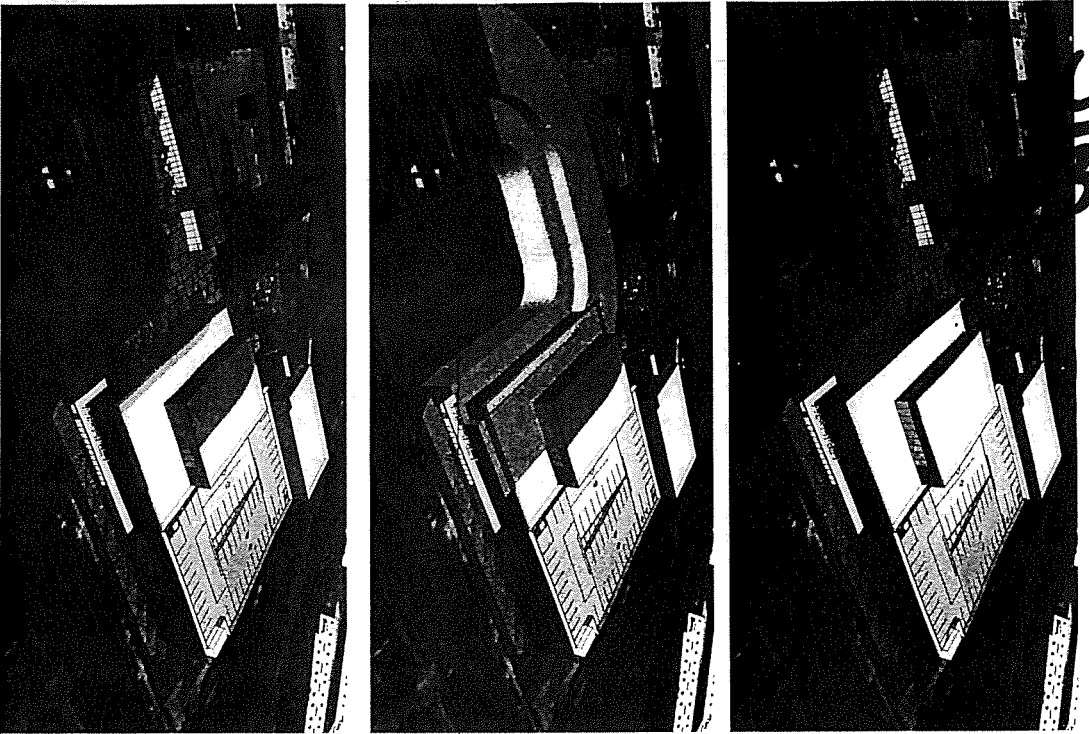
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01/10/11
 11/11/11



Michael Hsu
 Office Of Architecture

Site Plan
 scale 1/64" = 1'-0"



Triggering Lot:
Zoning: CS
Current Use: Residential

All portions of driveway are 5'-0" away from property line

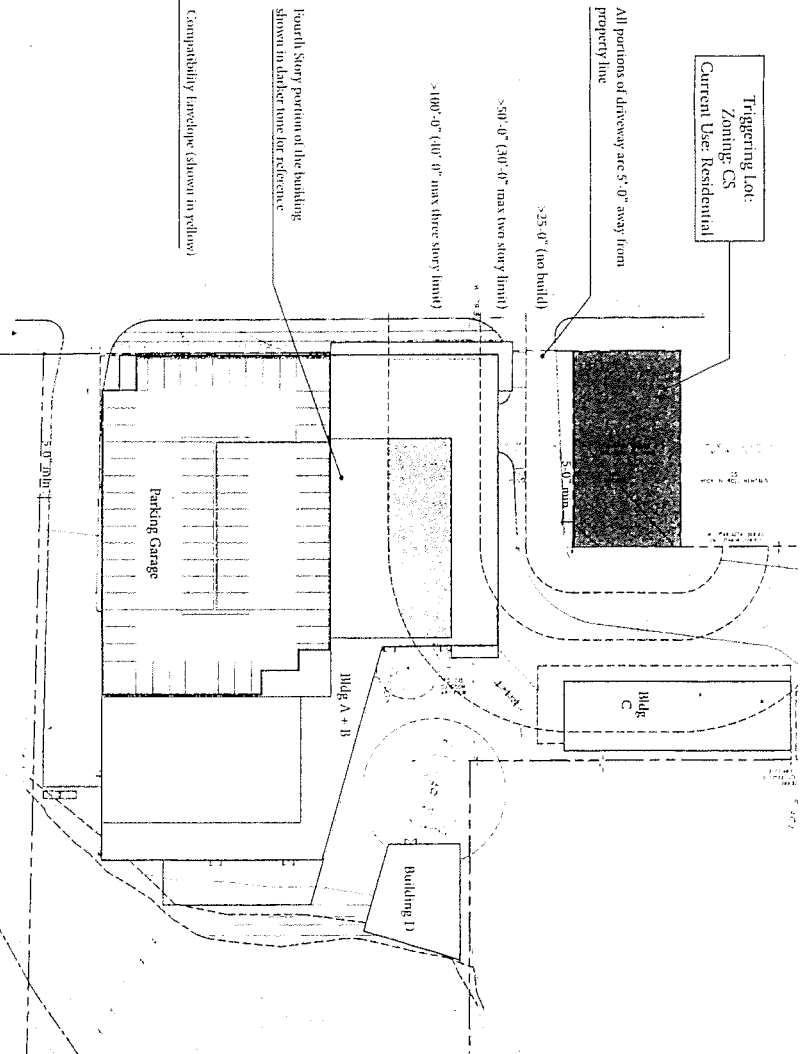
>25'-0" (no build)

>50'-0" (30'-0" max two story limit)

>100'-0" (10'-0" max three story limit)

Fourth Story portion of the building shown in darker tone for reference

Compatibility Landscaping (shown in yellow)

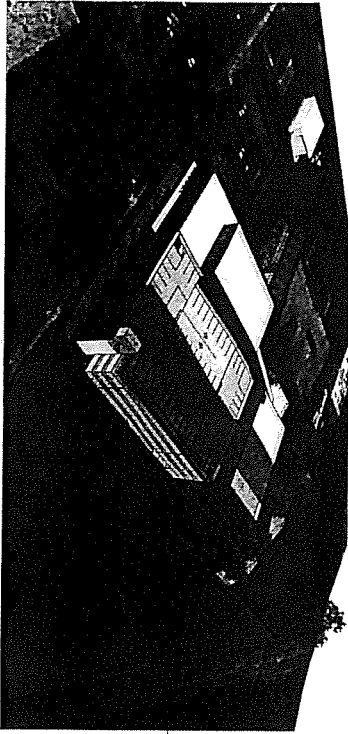
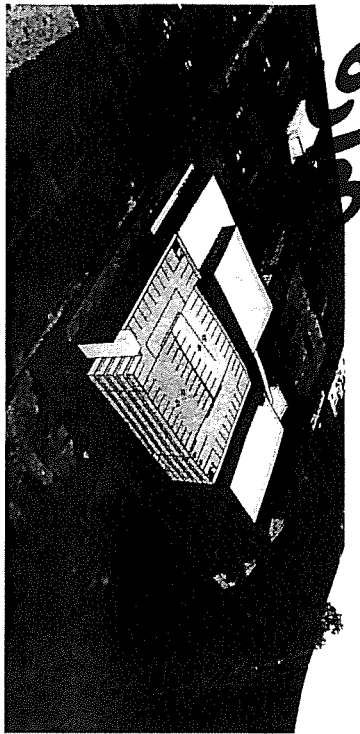


Site Roof Plan
scale: 1/64" = 1'-0"

LEGEND

- Building Area Requesting Variance From 25-2-1063(C)(2)
Allowed Height: 3 stories and 40'-0"
Proposed Height: 2 stories and 55'-6"
Variance Request: 15'-6"
- Building Area Requesting Variance From 25-2-1063(C)(1)
Allowed Height: 2 stories and 30'-0"
Proposed Height: 1 story and 45'-6"
Variance Request: 15'-6"
- Requesting encroachment for at grade internal street from 5' to 25' from 25-2-1063(D)

*(Note: The above legend pertains to this sheet only, all heights based off of average grade of building)



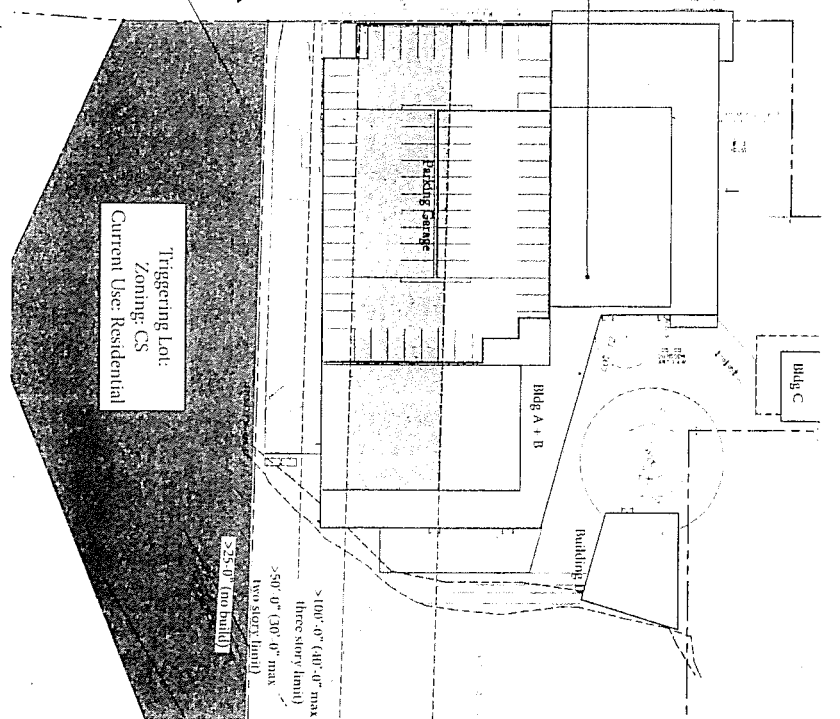
Fourth story portion of the building shown in darker tone for reference

Compatibility envelope (shown in yellow)

All portions of driveway are 5'-0" away from property line

Triggering Lot:
Zoning: CS
Current Use: Residential

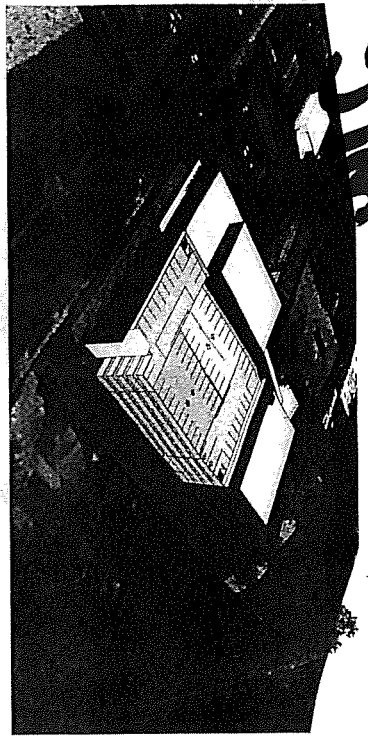
Site Roof Plan
scale: 1/64" = 1'-0"



LEGEND

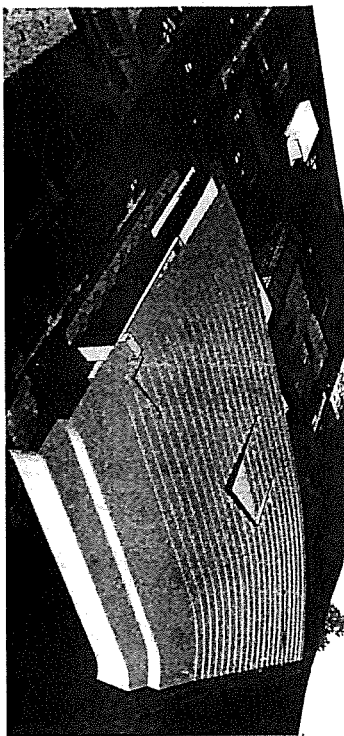
- Building Area Requesting Variance From 25-2-1063(C)(2)
- Allowed Height: 3 stories and 40'-0"
- Proposed Height: 4 stories and 55'-6"
- Variance Request: 15'-6" additional height, 1 additional story
- Building Area Requesting Variance From 25-2-1063(C)(1)
- Allowed Height: 2 stories and 30'-0"
- Proposed Height: 4 stories and 55'-6"
- Variance Request: 25'-6" additional height, 2 additional stories
- Requesting encroachment for at grade internal street from 5' to 25' from 25-2-1063(D)

** (Note: The above legend pertains to this sheet only; all heights based off of average grade of building)



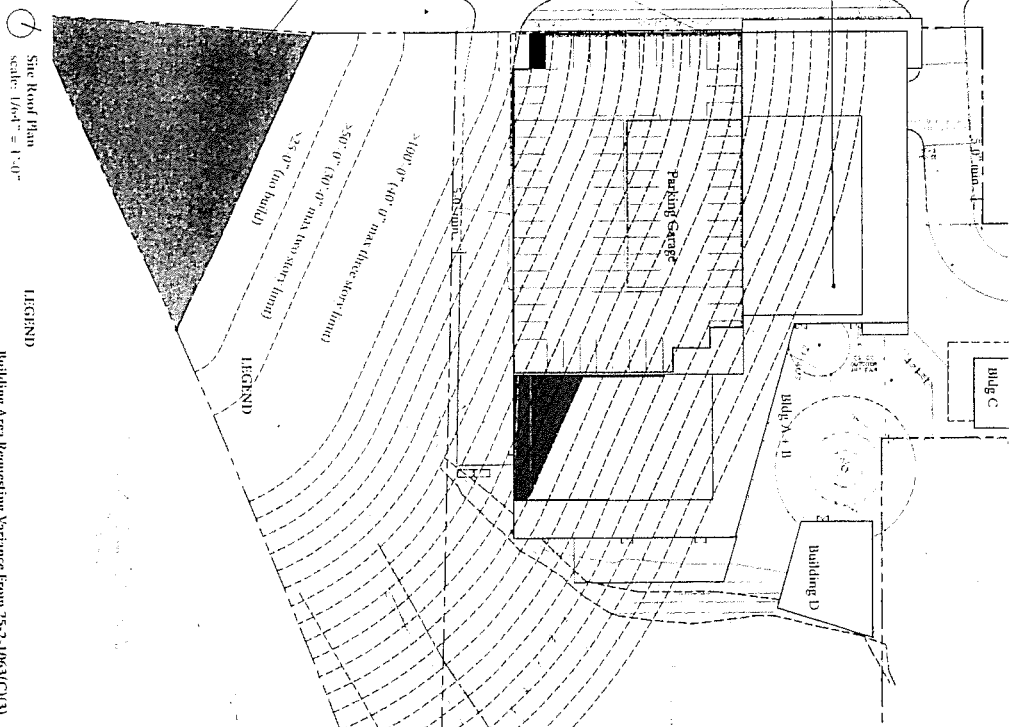
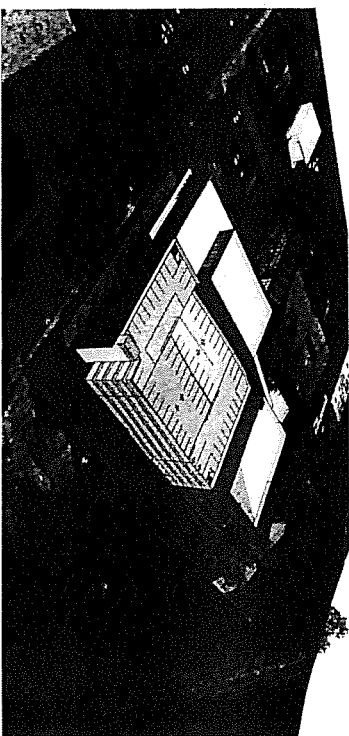
Fourth Story portion of the building shown in darker tone for reference

Compatibility envelope (shown in yellow)



Triggerying Lot:
Zoning: SF-3
Current Use: Vacant
Note: this lot is city owned and the majority is covered in 100 year floodplain

Portion of building violating compatibility height limitations (shown in pink)



** (Note: the above legend pertains to this sheet only, all heights based off of average grade of building)

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Heldenfels, Leane

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From: Zilker NA [REDACTED]
Sent: Tuesday, October 06, 2015 10:54 AM
To: Heldenfels, Leane
Cc: David King
Subject: 1412-1414 Oltorf variances
Attachments: ZNA on 1412Oltorf.docx

Re: C15-2015-0141, variance request at 1414 Oltorf

Good morning, Leane.

The Zoning Committee and Executive Committee of the Zilker Neighborhood Association have reviewed the requests for variances from compatibility setbacks at 1412 Oltorf. Attached is a letter describing our ongoing negotiations with the owner regarding the related rezoning case and site plan. Under the circumstances, and based on understandings described in the letter, the ZNA Executive Committee is not opposed to the variances. Please include the letter in the case file and backup materials for the Board of Adjustment hearing on Oct. 12.

Thank you.

Lorraine Atherton
for the ZNA Zoning Committee

Zilker Neighborhood Association

♦ 2009 Arpdale ♦ Austin, TX 78704 ♦ 512-447-7681 ♦

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October 6, 2015

To: Board of Adjustment

From: Zilker Neighborhood Association Executive Committee

Re: C15-2015-0141, variance request at 1414 Oltorf

ZNA position on Oltorf Market (1412 Oltorf site plan) variances, Oct 2015

The ZNA Zoning Committee has been meeting with Mr. Trainer for the last year to work out details of ZNA's support for his proposal to rezone and redevelop 1414 Oltorf and his adjacent properties. Discussions are ongoing on the rezoning case, but we are prepared to report to the Board of Adjustment that the ZNA Executive Committee does not oppose the variances requested in Case No. C15-2015-0141, based on the understandings described below.

Over the last 18 years, ZNA has negotiated several rezoning agreements resulting in conditional overlays or other restrictions affecting these properties. They include Mr. Trainer's properties at 1414 Oltorf in 2011, 1412 Oltorf in 1997, and 2043 S. Lamar in 2005 and again in 2008 (ZNA's Vertical Mixed Use overlay), and the Rock N Roll Rental site at 1420 Oltorf in 2004. The ZNA Zoning Committee's primary concern is to see these existing agreements substantially preserved.

A. Variances from setbacks at 1416 Oltorf

The cases in 2011, 2005, and 2004 involved compatibility issues triggered by the residential use at 1416 Oltorf, the same property triggering the driveway and height variances requested here. In response to ZNA's requests, Mr. Trainer has agreed to several changes in his original plan that will mitigate these compatibility issues and help to preserve the intent of our previous agreements.

Chief among these changes are:

Withdrawal of request for CS-1 zoning to allow a cocktail lounge use on the property.

A prohibition on late-hours alcohol sales, which should reduce late-night car traffic on the driveway adjacent to the residential use. Besides the effect on residents at 1416 Oltorf, the increase in late-night traffic created by cocktail lounge uses and alcohol sales after midnight would exacerbate problems experienced by residents south of Oltorf, east of the creek, and west of South Lamar.

A prohibition on live outdoor amplified music within the compatibility setbacks. In the existing restrictive covenant with the City, from the 2011 case, the first restriction is "Live

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outdoor amplified music is prohibited on the Property." We do not expect that prohibition to be extended to the entire new project. However, prohibiting live outdoor amplified music to the east and north of 1416 Oltorf would protect residents west of South Lamar as well as residents at 1416 Oltorf. At this writing, we are negotiating the boundaries of the area of prohibition. Mr. Trainer has agreed that *outdoor music applications elsewhere on the property will not exceed the terms currently in effect for the rest of the neighborhood: 70 decibels, with cutoff times of 8 p.m. Sunday-Thursday and 10 p.m. Friday-Saturday.*

Installation of improved screening (trees) on the side and back of 1416 Oltorf.

Again, this reflects the intent of the restrictive covenant negotiated in 2011 and code requirements for "a fence, berm, or dense vegetation . . . to screen adjoining properties from views of parking."

Use of superior streetscape and commercial design standards on the Oltorf frontage.

Mr. Trainer is proposing to meet the design standards required on South Lamar (wider sidewalks with street trees and more landscaping) on the Oltorf side of the project. These design standards reflect the intent of our previous agreements at 1420 Oltorf in 2004, as well as the agreement at 1414 Oltorf in 2011.

Preservation of the existing impervious cover limit of 90% within the compatibility setback. The 2011 conditional overlay for 1414 Oltorf limits impervious cover to 90%. Mr. Trainer has made adjustments to his new site plan to insure that impervious cover within the compatibility setback does not exceed 90%.

Restoration and enhancement of the creek and floodplain. Mr. Trainer will work with the Watershed Protection Department on options for restoration and enhancement of the creek and floodplain to prevent erosion, preserve existing trees, and secure public access according to best practices developed by the Watershed Protection Department.

Prohibition of certain uses. The 2011 conditional overlay for 1414 Oltorf prohibits "drive-in service use as an accessory use to a commercial use." That conditional overlay and the 2005 conditional overlay for 2043 South Lamar also contain lists of prohibited uses. Mr. Trainer is working with the Zoning Committee to update and consolidate the lists of prohibited uses to be included in a new CO. At this writing, the list of uses being reviewed includes:

- | | |
|----------------------------------|--|
| Adult oriented businesses | Drop-off recycling collection facility |
| Agricultural sales and services | Equipment sales |
| Automotive rentals | Equipment repair services |
| Automotive repair services | Exterminating services |
| Automotive sales | Funeral services |
| Automotive washing (of any type) | Kennels |
| Bail bond services | Laundry services |
| Campground | Limited warehousing and |
| Construction sales and services | distribution |
| Convenience storage | Outdoor entertainment |

Outdoor sports & recreation
Pawn shop services
Plant nursery
Scrap and salvage services

Service station
Vehicle storage
Veterinary services

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B. Variances from setbacks at 1402 Oltorf

The Zoning Committee is taking no position on variances triggered by the residential use at 1402 Oltorf. The owner at 1402 Oltorf applied for a variance earlier this year to redevelop the site with commercial uses; at that time it was clear that the site would be redeveloped as soon as Mr. Trainer's SF3 property is rezoned. We leave it to the property owners to agree to end their respective residential uses within a certain amount of time after the SF-3 parcel is rezoned to CS. That would remove the need for a variance.

C. Variance from setback at City-owned SF-3 property

The triangle of City-owned property at the railroad tracks is still zoned SF-3. That zoning creates a compatibility setback requirement. ZNA's interest in the property is that it remain available for future greenbelt access and public use. Of course, it will have little value as greenbelt access if Bouldin Creek's potential as a greenbelt is destroyed by adjacent overdevelopment. Mr. Trainer's project is attractive to ZNA because it appears to have the resources to protect the floodplain and urban forest, and Mr. Trainer is willing to work with the City and ZNA to establish precedents and a high standard for creek and forest protection, as described under "Restoration and enhancement of the creek and floodplain."

(signed)

Lorraine Atherton,

ZNA Zoning Committee member, on behalf of the ZNA Executive Committee

P.S. Regarding 2043 S. Lamar (Olivia parcel): The vertical mixed use overlay on 2043 S. Lamar has dimensional standards and parking reduction to 60%, along with the maximum affordable housing requirement, all of which ZNA wants to maintain. The VMU properties between Oltorf and W. Mary represent a significant part of ZNA's contribution to Austin's comprehensive plan, and the entire VMU proposal for South Lamar was approved by the general membership.

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend.** However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

Case Number: C15-2015-0141, at 1404, 1412, and 1414 West Oltorf and 2043 South Lamar

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, October 12th, 2015

Johnny Cuchia
Your Name (please print)

☒ I am in favor
☐ I object

2003 S. LAMAR
Your address(es) affected by this application

[Signature]
Signature

10-1-15
Date

Daytime Telephone: 512.917.0801

Comments:

Note: all comments received will become part of the public record of this case
If you use this form to comment, it may be returned by noon the day of the hearing to (comments received after noon may not be seen by the Board at this hearing) :

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

41/59

H W Real Estate LP
3915 North Hills Drive
Austin, Texas 78731
June 24, 2015

LA
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City of Austin
Board of Adjustment and Planning Commission
Austin, Texas

Ladies and Gentlemen:

I am writing concerning variance and rezoning for 1404, 1412, and 1414 West Oltorf Street and 2043 Lamar Boulevard in Austin, Texas. Scott Trainer the owner and developer of the property wishes to create a market, retail, and office development project in this location.

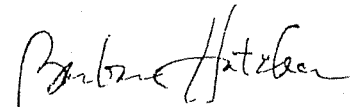
My Mother and I own the property at 1416 West Oltorf Street in the partnership of H W Real Estate LP next to the proposed project. My family has owned the property for many years. It is zoned CS, but we have always leased it as a single family dwelling. We currently have a tenant in the property.

I met with Mr. Scott Trainer recently at my property, and he showed me the plans he has for the property adjacent to mine. He also explained the encumbrances that my property at 1416 West Oltorf creates for the planned development because of a resident living at the property. This includes the compatibility issues of the 25 foot set-back for the proposed driveway, and the height restrictions associated with the buildings. He also explained the re-zoning requirements for the property in order to achieve the development.

In my opinion the proposed development will provide a community environment for the benefit of the neighborhood. I am in general agreement with the development he has proposed. I do not plan to protest the variance and zoning requests proposed.

If you have questions concerning my letter, please contact me at (512) 557-3067.

With heartfelt best wishes,



Barbara Hatcher, President
HW Real Estate LP

