




5/1

- N
-  SUBJECT TRACT
 -  PENDING CASE
 -  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2016-0087
LOCATION: 2001 & 2003 S. Lamar Blvd.



1" = 154'

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.

C15-2016-0087 51/2

Heldenfels, Leane

From: Bill Faust
Sent: Wednesday, October 19, 2016 5:28 PM
To: Heldenfels, Leane
Cc: Greg Smith
Subject: Request for Reconsideration 2001 and 2003 South Lamar

Ms. Heldenfels, on behalf of the owners of the subject properties, please accept this as our request for reconsideration at the next meeting of the Board of Adjustment. As you are aware, the Board was not at its full compliment and we were denied on a 7 for 3 against. It is the general consideration that the composition of the Board will make a marked difference in the outcome of our request.

Further, one of the questions from the Board was in reference to the rights of the owner of the tract 2005 S Lamar. I have spoken with staff and with two attorneys and none of them believe granting of a waiver from compatibility standards will impact the present owner of 2005 S Lamar or his rights under the code of the City of Austin. As stated, this tract is within the 100 year flood plain, within the boundaries of a City of Austin Drainage Easement. It has no access nor does it have any utilities .

Finally, we now have in our possession a letter, of which you have been given a copy, from Mr. Michael Kuhn, owner of 2005 S Lamar and Dimension Properties, stating that he does not have any objection to the Board of Adjustment granting our request for a waiver from the compatibility standards for height and distance.

Thank you for your assistance and professionalism during this matter.

Bill Faust

Sent from [Mail](#) for Windows 10

RECEIVED

NOV 20 2016

CITY OF AUSTIN

Letter of Support for Zoning Variance:

Dear City of Austin Board of Adjustments

I, Michael Kuhn, owner of Dimension Properties and also owner of 2005 S. Lamar Blvd hereby confirm my support for the current application by 2001 S. Lamar LLC, ownership of 2001 & 2003 S. Lamar Blvd. 2001 S. Lamar LLC is requesting a compatibility height and distance waiver for 2001 & 2003 S. Lamar to the SF zoned portion of my property at 2005 S. Lamar for all purposes including building setbacks and height. I wholly support the approval of this variance. Please feel free to call me with any questions in this regard.

Sincerely,

A handwritten signature in black ink, appearing to be 'MK', is written over a horizontal line.

Michael Kuhn

2005 S. Lamar Blvd owner

512-476-1072

51/3

51
4

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday, October 10, 2016

CASE NUMBER: C15-2016-0087

☐ N ☐ Brooke Bailey
☐ Y ☐ Michael Benaglio
☐ Y ☐ William Burkhardt
☐ Y ☐ Eric Goff **Motion to Grant; vote fails Denied**
☐ O ☐ Melissa Hawthorne OUT
☐ N ☐ Bryan King
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel **2nd the Motion**
☐ O ☐ Melissa Neslund
☐ Y ☐ James Valadez
☐ Y ☐ Michael Von Ohlen
☐ N ☐ Kelly Blume (Alternate)

OWNER/APPLICANT: Greg Smith and William Faust

ADDRESS: 2001 AND 2003 LAMAR BLVD

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1063 (B) (Height Limitations and Setbacks for Large Sites) of Article 10, Compatibility Standards 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 0 feet (requested) in order to construct four additional climate controlled self-storage units in an "CS-V", General Commercial Services – Vertical Mixed Use and "CS-MU-V-CO", General Commercial Services – Mixed Use – Vertical Mixed Use - Conditional Overlay zoning district.

BOARD'S DECISION: The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to October 10, 2016, Board Member Brooke Bailey second on a 11-0 vote; POSTPONED TO OCTOBER 10, 2016. (RE-NOTIFICATION NEEDED).

RENOTIFICATION:

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

- A. (B) 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 0 feet (requested); and to
- B. (C) (1) increase the height limitation from two stories and 30 feet, if the structure is 50 feet or less from property in an SF-5 or more restrictive district (required/permitted) to 6 stories and 60 feet (requested); and to

C. (C) (2) increase the height limitation from three stories and 40 feet, if the structure is more than 50 feet and not more than 100 feet from property in an SF-5 or more restrictive zoning district (required/permitted) to 6 stories and 60 feet (requested)


in order to erect apartments in an "CS-V", General Commercial Services – Vertical Mixed Use and "CS-MU-V-CO", General Commercial Services – Mixed Use – Vertical Mixed Use - Conditional Overlay zoning district.

BOARD'D DECISION: Oct 10, 2016 The public hearing was closed on Board Member Eric Goff motion to Grant, Board Member Rahm McDaniel second on a 7-3 vote (Board members Brooke Bailey, Bryan King, Kelly Blume nay); **VOTE FAILS; DENIED.**

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: compatibility standards from the SF-3 tract would not allow the tract to be built, nothing in SF-3 lot because it's in a creek
2. (a) The hardship for which the variance is requested is unique to the property in that: the small, 50 ft by 50 ft approximately lone SF-3 totally surrounded by CS/MU properties in creek creating compatibility restrictions in this property
(b) The hardship is not general to the area in which the property is located because: this situation cannot be restricted by either rezoning the tract due to no point of beginning to get legal description, according to city zoning staff, this is a scribner's error.
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: property on all sides and property upon which this tract resides are all zoned CS-MU some with "v" is very distinct and specific to this tract, unusual SF-3 tract


Leane Heldenfels
Executive Liaison


William Burkhardt
Chairman

11

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday, August 8, 2016

CASE NUMBER: C15-2016-0087

☒ Y ☐ Brooks Bailey 2nd the motion
☒ Y ☐ Michael Benaglio
☒ Y ☐ William Burkhardt
☒ Y ☐ Eric Goff
☒ Y ☐ Melissa Hawthorne PP to Oct 10, 2016 (RE-NOTICE NEEDED)
☒ Y ☐ Bryan King
☒ Y ☐ Don Leighton-Burwell
☒ - ☐ Rahm McDaniel (OUT)
☒ Y ☐ Melissa Neslund
☒ Y ☐ James Valadez
☒ Y ☐ Michael Von Ohlen
☒ Y ☐ Kelly Blume (Alternate)

OWNER/APPLICANT: Greg Smith and William Faust

ADDRESS: 2001 AND 2003 LAMAR BLVD

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1063 (B) (Height Limitations and Setbacks for Large Sites) of Article 10, Compatibility Standards 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 0 feet (requested) in order to construct four additional climate controlled self-storage units in an "CS-V", General Commercial Services – Vertical Mixed Use and "CS-MU-V-CO", General Commercial Services – Mixed Use – Vertical Mixed Use - Conditional Overlay zoning district.

BOARD'S DECISION: The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to October 10, 2016, Board Member Brooke Bailey second on a 11-0 vote; POSTPONED TO OCTOBER 10, 2016. (RE-NOTIFICATION NEEDED)

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:


Leanne Heidenfels
Executive Liaison


William Burkhardt
Chairman

Revised



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

5/7

Board of Adjustment General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. *If more space is required, please complete Section 6 as needed.* All information is required (if applicable).

For Office Use Only

Case # C15-2016-0087 ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 2001 & 2003 S. LAMAR BLVD. AUSTIN, TX 78704

Subdivision Legal Description:

LOT 5-A BLK 1 RESUB OF LOTS 4-5 FREDERICKSBURG ROAD ACRES

Lot(s): 5-A Block(s): 1

Outlot: 4-5 Division: FREDERICKSBURG ROAD ACRES

Zoning District: _____

I/We WILL FAUST on behalf of myself/ourselves as
authorized agent for GREG SAITH affirm that on

Month Select _____, Day Select _____, Year Select _____, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☒ Other: COMPATIBILITY WAIVER REQUEST

Type of Structure: TO BUILD APARTMENTS

5/2

PORTION OF 2005 S. LAMAR ZONED SF3 IN MIDDLE OF
C/S/MULV IMPD TRACT. WE BELIEVE THIS IS A ILLEGAL
TRCT - WITH NO PUBLIC ACCESS, LOCATED IN A DRAINAGE EASEMENT
100% WITHIN THE 100 YEAR FLOOD PLAIN

Section 2: Variance Findings

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 supporting documents.

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.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

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

COMPATIBILITY STANDARDS FROM THE SF3 TRACT WOULD NOT
ALLOW THE C&M TRACT CONTIGUOUS TRACTS TO BUILD
ANYTHING INTENDED BY THE ~~THE~~ EXISTING NEIGHBORHOOD
APPROVED ZONING.

Hardship

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

A SMALL 250 FT BY 30 FT APPROXIMATELY, LONG SF 3 TOTALLY SURROUNDED BY C/S/M TRACTS. THE SMALL TRACT HAS NO PUBLIC ACCESS, IS LOCATED IN BOTH A 100 YEAR FLOOD ZONE AND A CITY OF ALSEIN DRAINAGE ELEMENT

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

THIS SITUATION CANNOT BE RECTIFIED BY EITHER
REOPENING THE TRACT, DUE TO NO POINT OF BEGINNING
TO GET LEGAL DESCRIPTION. ACCORDING TO CITY
ZONING STAFF, THIS IS A SERIBNERS ERROR-

51/9

Area Character

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:

IT IS A SCRIBERS ERROR. PROPERTY ON ALL SIDES
AND THE PROPERTY UPON WHICH THIS TRACT RESIDES
ARE ALL ZONED APC/MU SOME WITH "V".
THIS WAIVER IS VERY DISTINCT AND SPECIFIC TO
THIS TRACT

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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:

N/A

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

N/A

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

N/A

5/10

Section 3: Applicant Certificate

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

Applicant Signature: [Signature] Date: 6/5/16
Applicant Name (typed or printed): GREG SMITH
Applicant Mailing Address: 1004 MAPLE CIRCLE, SUITE 200
City: AUSTIN State: TX Zip: 78746
Phone (will be public information): 512-736-7291
Email (optional - will be public information): _____

Section 4: Owner Certificate

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

Owner Signature: [Signature] Date: 6/5/16
Owner Name (typed or printed): GREG SMITH
Owner Mailing Address: 1004 MAPLE CIRCLE
City: AUSTIN State: TX Zip: 78746
Phone (will be public information): _____
Email (optional - will be public information): _____

Section 5: Agent Information

Agent Name: W. M. FAUST
Agent Mailing Address: 427 CONNELLY CIRCLE WEST
City: LOCKHART State: TEXAS Zip: 78644
Phone (will be public information): BELL 512-923-2523
Email (optional - will be public information): W.FAUST@DOORTOOR.COM

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

51
11

July 14, 2016

Mr William M Faust
3607 Lone Man Mountain Road
Wimberley TX. 78676

RE: Compatibility waiver for 2001 S. Lamar Blvd. in Austin, TX 78704 (the
"Property").

Dear Mr Faust:

This letter shall serve as authorization for you, William M Faust, to be our agent in the matter of processing a zoning compatibility waiver with The City Austin Board of Adjustments on the above referenced matter in conjunction with the matter already filed for 2001 S. Lamar Blvd. I am the current property owner of 2003 S. Lamar in which I am currently under contract to sell 2003 S. Lamar to the ownership of 2001 S. Lamar who has already filed such request and is set for the August 8th court date. The goal is to obtain a compatibility waiver for both 2001 and 2003 S. Lamar from the SF zoned portion of 2005 S. Lamar.

Please let me know if you need anything else from me in this regard.

Sincerely,


Johnny Cuchia

2003 S. Lamar property owner

21
12

**W.M. FAUST
Real Estate Consultant
427 Connolly Circle West
Lockhart, TX**

September 4, 2016

RE: Board of Adjustment Finding of Fact

Dear Members of the Board

My name is W.M.Faust, and I am representing the owners of 2001 and 2003 S. Lamar. We are requesting a waiver from all Compatibility standards from a small portion of the property contiguous and on our South property line.

Within this property is a small portion zoned SF-3. We estimate that this tract is 25 foot squared. It is within the 100 year flood plain and has no legal access nor, in my mind, can it ever get legal access. In addition, this small tract is totally within a major City of Austin Drainage easement. This tract is illegal and undevelopable. We attempted to work with the present owner of the entire tract at 2005 S. Lamar to get the tract rezoned. We could not find a Point of beginning to survey the tract therefore we could no rezone just the SF3 portion. We then asked if we could rezone the entire tract using the existing zoning but the owner is unwilling to subject his property to having to dedicate additional right of way for S. Lamar. This owner would rather wait and determine his highest and best use prior to going through the zoning process.

Finally, we thought of getting a 1704 determination, but could not get a legal for submission and were not sure what we would have with a 1704 if it were given.

11/13

That brings us to our last option. Requesting this Commission to grant a waiver to the compatibility standards required of any property zoned or used other than single family next to a single family zoned or used property.

I have visited with several members of staff and we are all in agreement that this is a very unique situation. This is more than likely a simple issue of a Scribner's error. Somewhere along the line, this tract got missed.

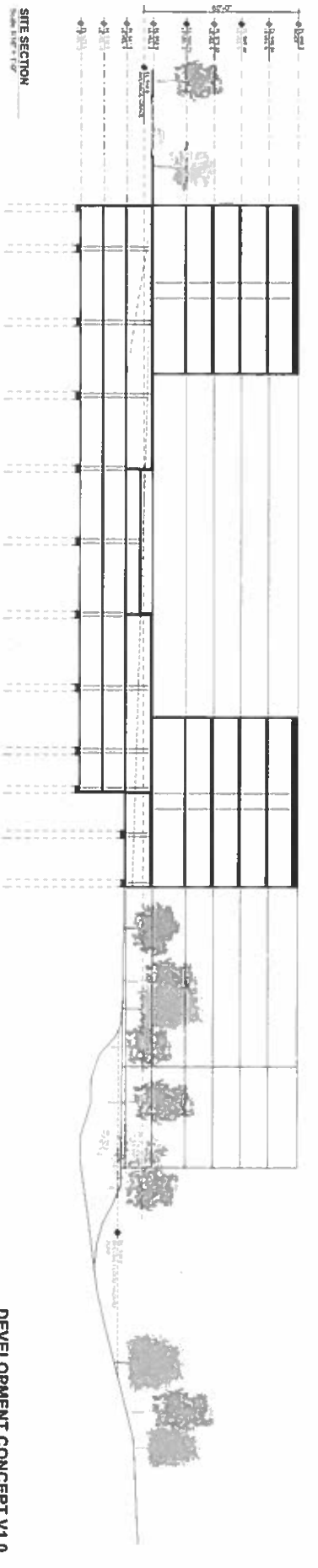
There would be no issue with setting a precedence since this is a unique situation and your approval hereof would not have any adverse impact on any property within the City of Austin other than the two lots in question.

Thank you very much for your consideration on this matter

Very Sincerely,

W. M. Faust

13



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DEVELOPMENT CONCEPT V1.0
AUGUST 8, 2018

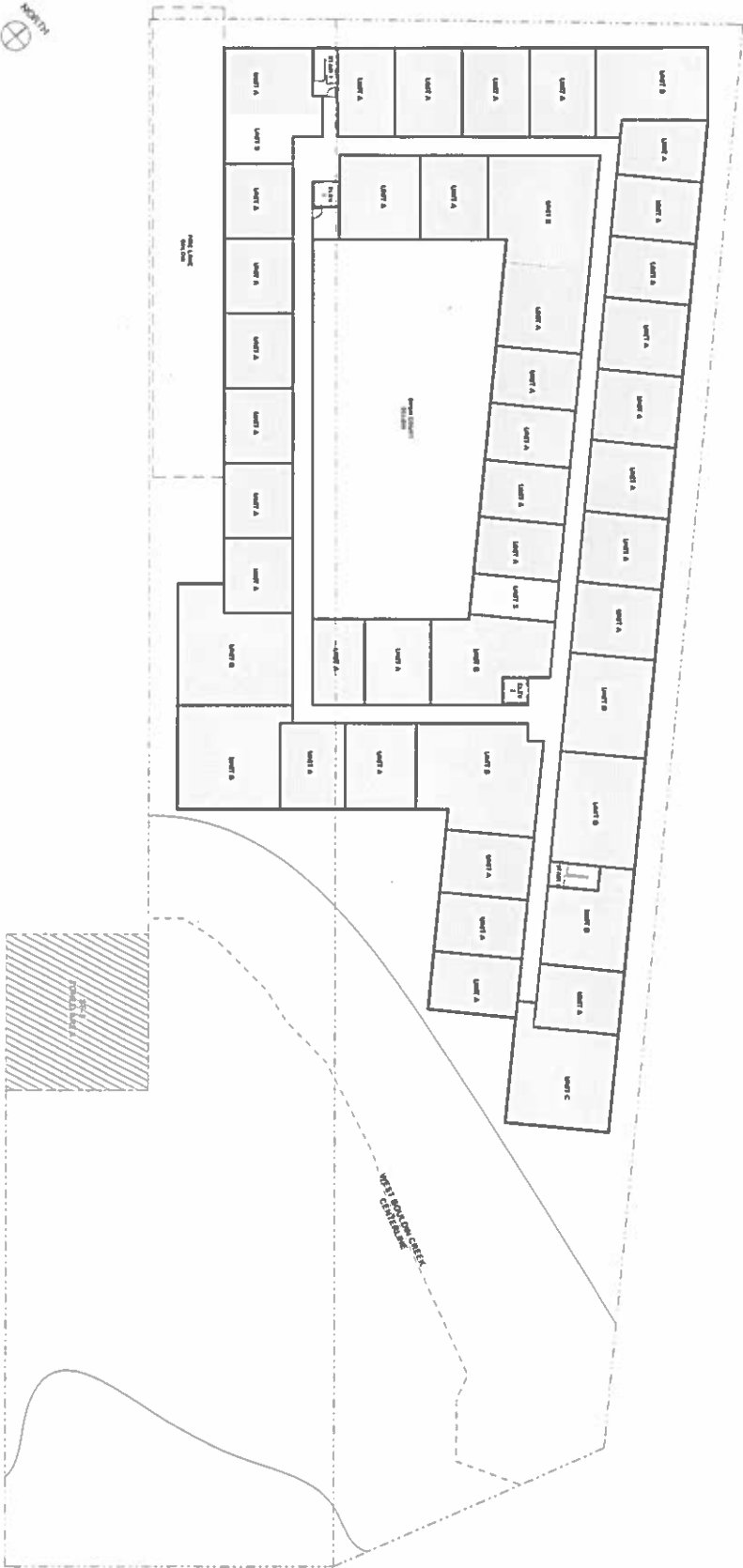
2001-2003 S. LAMAR BLVD
AUSTIN, TEXAS

First Austin Properties

IS
IT

WEST MARY ST

LEVEL 3 - 6 FLOOR PLAN
 NORTH

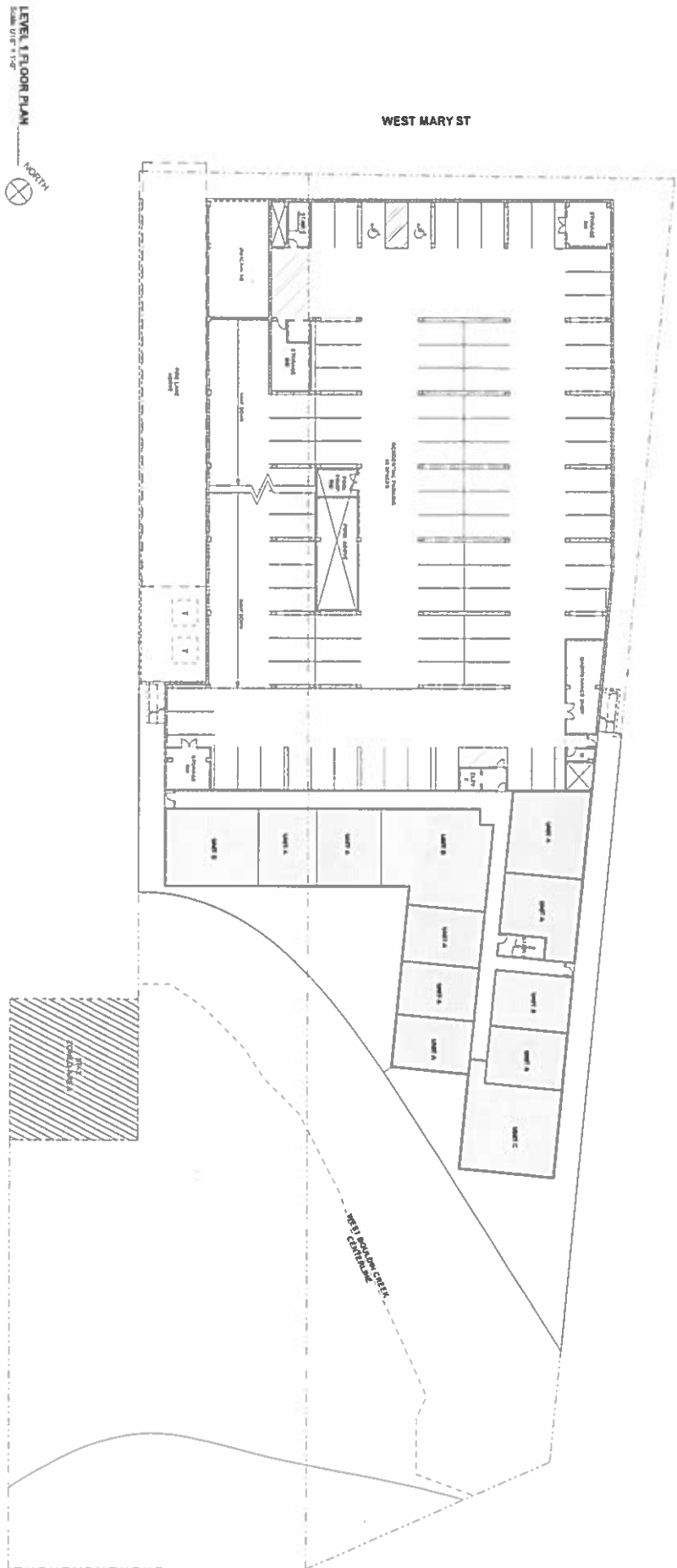


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DEVELOPMENT CONCEPT V1.0
 AUGUST 8, 2016

2001-2003 S. LAMAR BLVD
 AUSTIN, TEXAS
 First Austin Properties

1/2



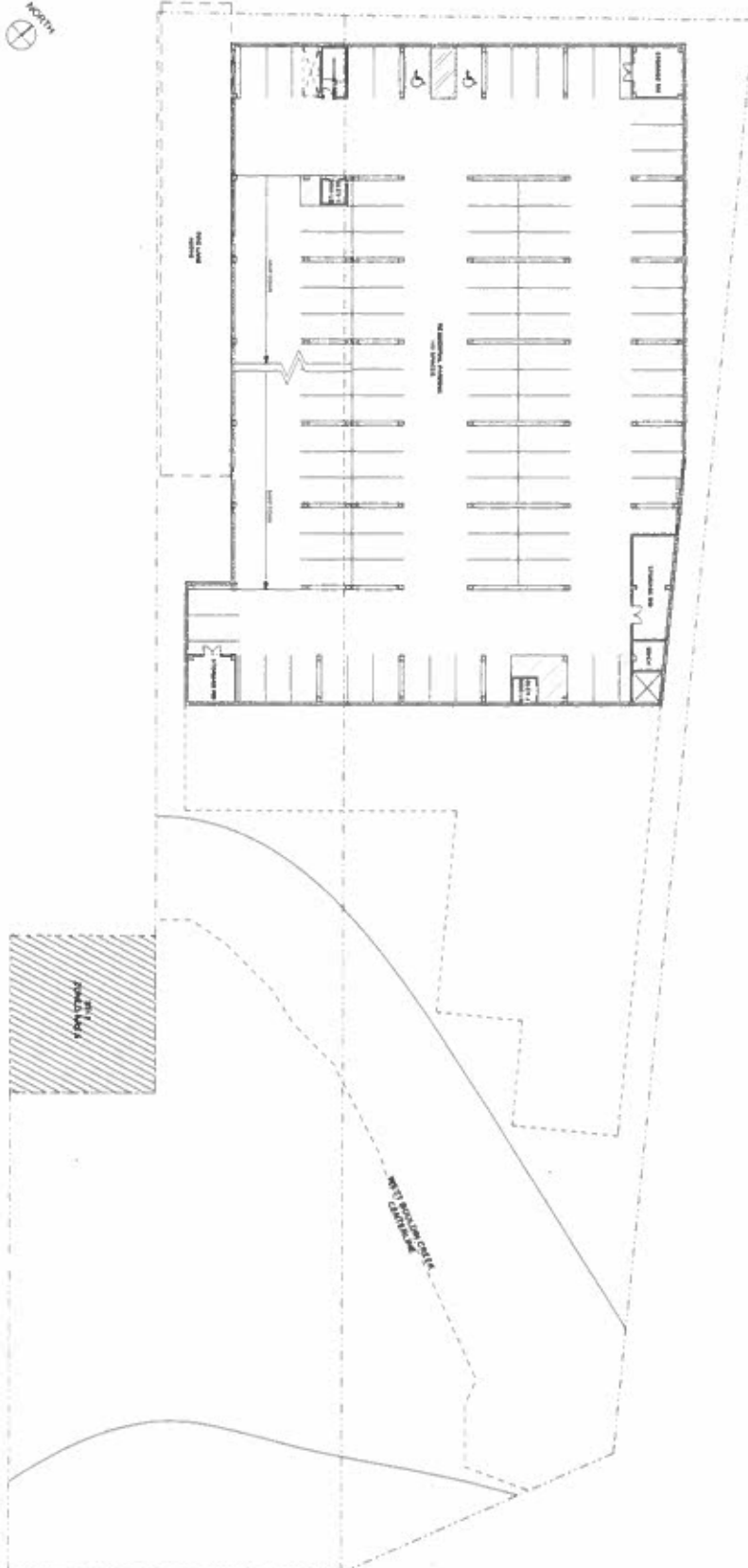
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DEVELOPMENT CONCEPT V1.0
AUGUST 8, 2018
2001-2003 S. LAMAR BLVD
AUSTIN, TEXAS
First Austin Properties

15/15

WEST MARY ST

LEVEL 1 FLOOR PLAN



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DEVELOPMENT CONCEPT V1.0

AUGUST 8, 2018

2001-2003 S. LAMAR BLVD

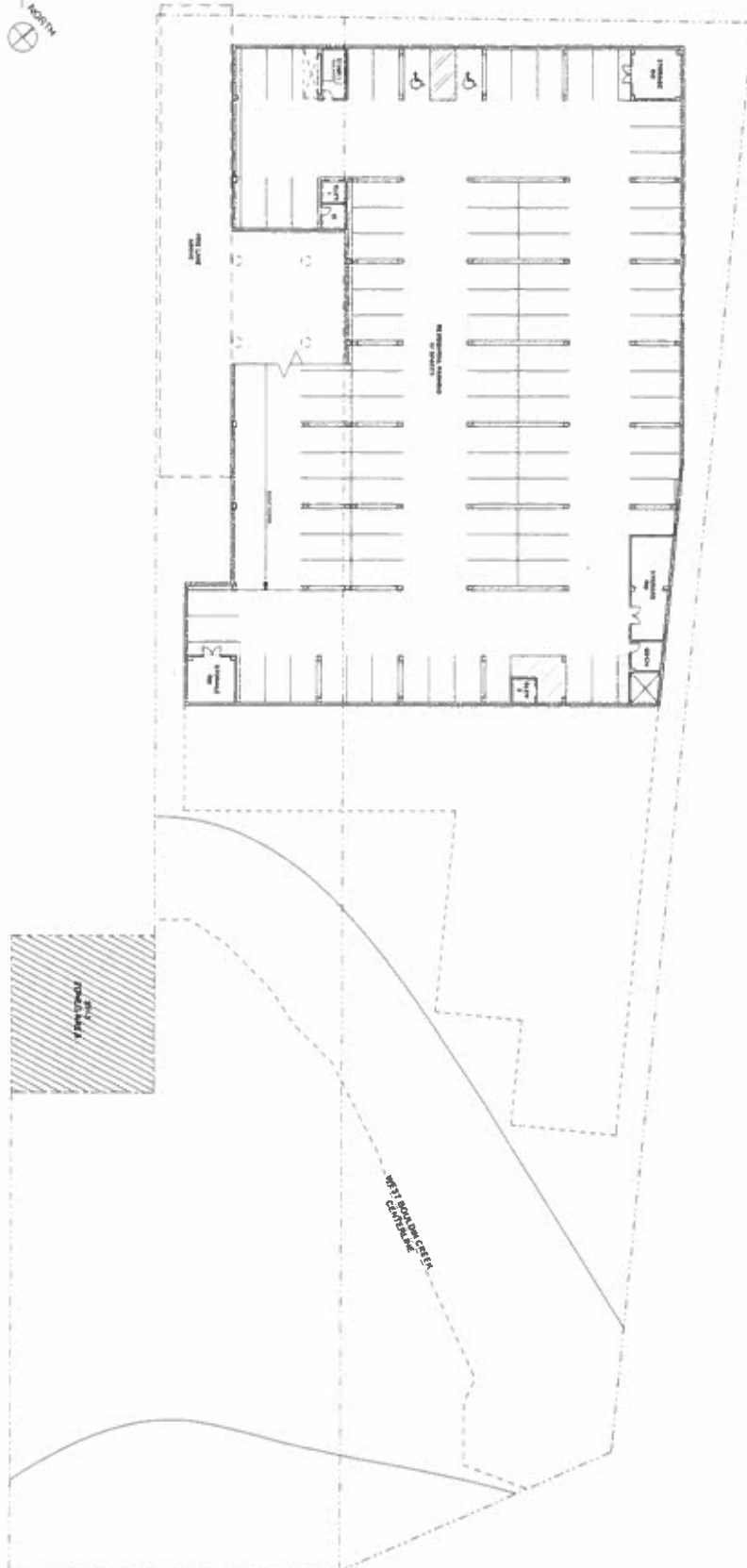
AUSTIN, TEXAS

First Austin Properties

1/18

WEST MARY ST

LEVEL 3 FLOOR PLAN
Scale: 1/8" = 1'-0"



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USED FOR REGULATORY APPROVAL, PERMIT OR CONSTRUCTION.
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DEVELOPMENT CONCEPT V1.0
AUGUST 18, 2018

2001-2003 S. LAMAR BLVD
AUSTIN, TEXAS
First Austin Properties

Heldenfels, Leane

11/19

From: Tyler Grooms [REDACTED]
Sent: Wednesday, October 12, 2016 10:24 AM
To: Heldenfels, Leane
Subject: RE: Objection to Case C15-2016-0087, 2001 and 2003 S Lamar Blvd

Leanne,

Thanks. These are the plans the developer showed us and explained why they need the variance. We are in support of the request conditioned on this use (apartments) and substantially the same plans as these. Please consider our support for these plans in the hearing on 11/14.

Thanks again!

Tyler Grooms

Yes, current plans are for apartments, originally application said storage but that application was revised. To take a look at the plans submitted go to austintexas.gov, then click on development, then click on 2nd paragraph heading (Search case and permit information), then input address of case number and click submit. Then open the BA case and scroll down to attachments and open the 10/10 hearing back up.

Here's a link to the search case and permit info page, too:

https://www.austintexas.gov/devreview/a_queryfolder_permits.jsp

I believe it will be reconsidered at the Board's 11/14 hearing if you want to submit and comments pro or con via email to me.

Take care,

Leane Heldenfels
Board of Adjustment Liaison
City of Austin Development Services Department
One Texas Center, 1st Floor, Development Assistance Center
505 Barton Springs Road
Office: 512-974-2202



Development
SERVICES DEPARTMENT

Building A Better Austin Together

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We want to hear from you! Please take a few minutes to complete our [online customer survey](#).

Nos gustaria escuchar de usted. Por favor, tome un momento para [completar nuestra encuesta](#).

Heldenfels, Leane

From: Drew Zerdecki [REDACTED]
Sent: Wednesday, October 05, 2016 1:33 PM
To: Heldenfels, Leane
Subject: Public Hearing Case C15-2016-0087, 2001 and 2003 S. Lamar
[REDACTED]

Hello -

My name is Drew Zerdecki, and I object to the Land Development Code Variance being requested at 2001 and 2003 S. Lamar Blvd.
Case C15-20160087

My address is 1211 West Mary Street No. 3, and this is my primary resident, which is within 500 feet of the subject property. My daytime telephone is 512.415.7727

My comments against the request to allow for variance from the existing code are the following based upon living in the neighborhood for the past two years:

- Our street, Mary Street, is the only residential East/West corridor connecting Congress and South Lamar between Barton Springs and Olmstead. The increase in development has already put a traffic strain on our 2 lane residential street and created many incidents, not the least of which was a struck pedestrian earlier this year. Such traffic strain and risk to pedestrians could only be worsened by a six story complex.
- The parking demands for Corner Bar, Snooze, and Picnic have already put such a strain on available street parking that our bike lanes are constantly blocked by illegally parked cars. The fire hydrant in front of our property is blocked by illegally parked cars so often that the Fire Department and 311 no longer responds to reports of cars parked illegally. They are overwhelmed with the constant infringement.
- During a recent test of the fire hydrant in front of our property, the fireman commented that they were unsure that the hydrant could now support the increased development on our street.

Thank you.

Sincerely,

Drew Zerdecki

Heldenfels, Leane

From: Jeanne Chauvin [REDACTED]
Sent: Tuesday, October 04, 2016 12:24 PM
To: Heldenfels, Leane
Cc: Babe
Subject: Fwd: Public Hearing Case C15-2016-0087, 2001 and 2003 S Lamar

My name is Jeanne Chauvin and I object to the Land Development Code Variance being requested at 2001 and 2003 S. Lamar Blvd.

Case C15-20160087

My address is 1211 West Mary Street and this is my primary resident which is within 500 feet of the subject property.

My daytime telephone is 512-751-0771

My comments against the request to allow for variance from the existing code are the following based upon living in the neighborhood for over 4 years:

- Our street, Mary Street, is the only residential East/West corridor connecting Congress and South Lamar between Barton Springs and Oltorf.
- The increase in development has already put a traffic strain on our 2 lane residential street which would only be worsened by a six story complex.
- The parking demands for Corner Bar, Snooze and Picnic have already put such a strain on available street parking that our bike lanes are constantly blocked by illegally parked cars.
- The fire hydrant in front of our property is blocked by cars illegally parked so often, that the Fire Department and 311 no longer respond to reports of cars parked illegally. They are overwhelmed with the constant infringement.
- During a recent test of the fire hydrant in front of our property, the fireman commented that they were unsure that the hydrant could now support the increased development on our street.

Sincerely,

Jeanne & Chris Chauvin

C15-2016-0087

11
22

Heldenfels, Leane

From: Bill Faust [REDACTED]
Sent: Monday, October 03, 2016 5:49 PM
To: latherton@austin.rr.com
Cc: Heldenfels, Leane; Greg Smith
Subject: FW: 2001, 2003 S. Lamar height/distance info
Attachments: 2001,003 S. Lamar renotification.doc

Ms. Atherton, attached please find the notice of our hearing in front of the Board of Adjustment along with a pdf of the proposed apartments that we are planning for 2001 and 2003 South Lamar. I am contacting you to request a moment of your time for lunch or coffee or anything else to discuss our situation. As you are aware, there is a small SF3 zoned tract on the property known locally at 2005 SLamar and we are requesting a height and distance waiver from the compatability standard of the City of Austin code.

I can make our case very quickly so it will not take much of your valuable time. You are more aware of what is going on in that area than anyone else and I very much respect you and would like to have your valuable support for our request. I am aware that you were instrumental in getting the zoning that is on these three properties and know that we have a difficult time with the Board if you are opposed to our request.

Thank you very much in advance for your consideration to our request for a meeting. Bill Faust.

Bill Faust
512.923.2523
[REDACTED]

Sent from Mail for Windows 10

From: Heldenfels, Leane
Sent: Monday, October 3, 2016 10:57 AM
To: [REDACTED]
Subject: RE: 2001, 2003 S. Lamar height/distance info

Here's the notice Zilker NA should have received Fri or Sat.

Leane

From: [REDACTED]
Sent: Monday, October 03, 2016 10:46 AM
To: Heldenfels, Leane
Subject: Fwd: 2001, 2003 S. Lamar height/distance info

Leane, better late than never?

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
To: "Bill Faust" [REDACTED]

11/23

Heldenfels, Leane

From: Lorraine Atherton [REDACTED]
Sent: Monday, October 03, 2016 2:41 PM
To: Heldenfels, Leane
Cc: Gonzales, Rodney
Subject: C15-2016-0087, 2001-2003 S. Lamar, ZNA opposes
Attachments: 2001-03 SLamar ZNAletter&exhibit.pdf

Hello, Ms. Heldenfels.

This is regarding the variance requested at 2001 & 2003 S. Lamar, C15-2016-0087, scheduled for the Board of Adjustment on October 10. The attached PDF contains a letter of opposition from the Zilker Neighborhood Association Executive Committee along with an exhibit. Please note that we still believe that the proposed project requires a zoning change (from CS-VMU to multifamily) that is not within the Board's authority, and we still object to the scheduling of applications that do not include the required site plans.

Please include the letter and exhibit in the Board's backup material and in the file for this case.

Many thanks,

Lorraine Atherton
(512-447-7681)

11/24

Zilker Neighborhood Association

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

October 3, 2016

Board of Adjustment
City of Austin Watershed Protection and
Development Review Dept.

Re: Revised Variance request C15-2016-0087, 2001-2003 South Lamar

Dear Chairman and Board Members:

The Zoning Committee of the Zilker Neighborhood Association has reviewed the revised variance requested by Greg Smith and William Faust at 2001 and 2003 S. Lamar, C15-2016-0087, with the proposed use changed from self-storage to multifamily. Again, we must point out that the application is incomplete in that it lacks a site plan showing the encroachment on the setbacks, that the proposed alternative use would require rezoning, and that the request meets none of the required findings. Development Review staff should be asked to determine whether the proposed apartment building can be permitted within the current CS-VMU zoning district; our experience has been that staff cannot make such determinations if a site plan application has not been submitted.

These issues are addressed individually below.

Correction of Mapping Error Not Requested

The latest application relies almost entirely on the contention that the SF-3 zoning is some kind of error. If that is true, the "error" can be easily corrected by submitting a formal request for a zoning correction to the Director of Development Review. It is not a matter for the Board of Adjustment.

The Zoning Committee has considerable experience with mapping errors. The VMU overlay resulted in a few clerical and mapping errors, and other properties on South Lamar have had supposed errors corrected and then subsequently uncorrected when research found that they were not errors at all. We know from that experience that the Director of Development Review has the authority to correct zoning errors, with no public hearing or notice to the property owner; we also have correspondence from the former director, Greg Guernsey, to that effect.

If city staff agree with Mr. Faust that the SF-3 zoning is an error, they will correct the error on the zoning map as soon as he submits a formal request. On that basis, the Board should deny the current variance request.

11/25

Setbacks Not Shown

Based on the plans presented at the August hearing, Mr. Smith, on behalf of 2001 S. Lamar LLC, is seeking a variance to allow new construction of a 230-unit multifamily building at 2003 S. Lamar, a property owned and developed by Mr. Cuchia. Mr. Smith asserts that compatibility setbacks associated with single-family zoning at 2005 S. Lamar will somehow deprive him of reasonable use of Mr. Cuchia's property. The assertion is difficult to evaluate because the sketchy "development concept" plan does not show the extent of the compatibility setbacks. (Please note that under the rules of the Board, a "site plan or survey must be submitted, drawn to scale showing present and proposed construction along with existing structures on all adjacent lots." In cases involving commercial properties and paid agents, we would appreciate it if staff refrained from accepting such incomplete applications and scheduling hearings before the dimensions of the variances are determined.)

The ZNA zoning committee, however, is familiar with the site and with the compatibility setbacks triggered by the numerous remnant SF-3 properties in the 100-year floodplain of West Bouldin Creek. Attached to this letter is a copy of the applicant's "Development Concept V1.0." We have added dotted lines showing that the 25-foot no-build setback and the 50-foot setback limiting the height of construction to 30 feet or two stories are both within the floodplain and Critical Water Quality Zone and therefore are unbuildable. The proposed construction does not encroach on either setback. Only the top two floors of the southeast corner of the proposed building encroach on the 100-foot setback limiting the height to 40 feet or three stories. The encroachment could be avoided by swapping the swimming pool and courtyard in the middle of the plan with the living units in the 100-foot setback. That would be the smart thing to do, given the proximity of the floodplain.

Multifamily Zoning Required

All of the commercial properties in this block, from West Mary to Oltorf, are included in the "most intense development" category of the Vertical Mixed Use zoning overlay. To encourage increased density and residential uses, these properties have received the most generous and flexible zoning in this area. The owners have more options than most to maximize the use of their properties within the physical constraints of each site. Our understanding of the VMU ordinance, however, is that properties in the overlay may not be redeveloped with ordinary multifamily use; they must include mixed use. This "development concept" does not appear to include any uses other than multifamily and so would require rezoning. If it is not Vertical Mixed Use, the project would not qualify for the dimensional standards and parking reductions that it appears to require.

If Mr. Smith wishes to maximize development within the existing zoning, he should submit a VMU site plan to the Development Review Department designed within existing code.

57
24

Findings

Reasonable Use. The applicable rezoning ordinance (20070201-054) for 2003 S. Lamar does not allow the multifamily use proposed by Mr. Smith. The Board's rules state: "The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning." If Mr. Smith wishes to build an apartment building at 2003 S. Lamar, he must submit a mixed-use site plan or ask the City Council to rezone the property to some level of multifamily.

Even if the proposed use were allowed, the definition of "reasonable use" cannot be extended to include new construction that can easily be designed within existing code.

Hardship. (a) Mr. Smith has not demonstrated that the 25-foot or 50-foot compatibility setbacks overlap any of the buildable areas on this property. Neither has he demonstrated that anything requires the back corner of a future structure to be more than 40 feet tall; indeed, it looks like placement of the courtyard in that area would be an improvement. We have to conclude that there is no hardship, unique or not. (b) This condition (remnants of SF-3 zoning within or near the floodplain) is general to the area between South Lamar and the railroad tracks and West Bouldin Creek, including Evergreen, West Mary, West Oltorf, Thornton, and so on. ZNA has worked on at least 9 similar cases in this area. Most of them have been resolved by rezoning, including the rezoning of 2003 S. Lamar in 2006. New construction on a property that is already conforming with zoning and site development regulations cannot possibly claim a qualifying hardship. If a new owner wishes to redevelop the property, the new construction must meet current zoning and site development regulations.

Area Character. The purpose of the Vertical Mixed Use overlay is to facilitate a combination of residential and small retail mixed uses. Mr. Smith is proposing to demolish existing small retail and office buildings and replace them with a large monolithic apartment building. In most of the similar cases our zoning committee has reviewed, the owners of the SF-3 remnants have been concerned about impairing the current or future use or value of their properties, which is why they refuse to rezone. Our zoning committee is concerned that variances such as these will impair the purpose of the VMU overlay, which the general membership supported in order to encourage mixed use redevelopment in appropriate areas.

To summarize, we request that the variance be denied because:

1. The application is incomplete. Mr. Smith has not produced a site plan showing that the compatibility setbacks impair the use of this property in any way.
2. The applicant has not pursued other, more appropriate solutions. Mr. Faust asserts that the SF-3 zoning is a mapping error, but apparently has not applied to have the error corrected.
3. The proposed use is not allowed. The Board does not have the authority to overturn the previous rezoning; Mr. Smith must ask the City Council to do that.

57/27

4. The existing office building and the "concept" plans submitted by the applicant to the BoA prove that the zoning regulations do allow for reasonable use.
5. There is no qualifying hardship.
6. The use of adjacent properties and the purpose of the current zoning will be impaired.

Thank you for your service on the Board of Adjustment.

Sincerely yours,



Lorraine Atherton,
on behalf of the ZNA Executive Committee

 $\sqrt{2}$

5/29

Heldenfels, Leane

From: Bryan Underwood [REDACTED]
Sent: Friday, August 05, 2016 6:17 PM
To: Heldenfels, Leane
Subject: Case Number: C15-2016-087
[REDACTED]

Ms. Leane Heldenfels:

I am writing on behalf of A-1 Austin South Lamar, L.P., the owner of 1708 & 1800 South Lamar to strongly object to the proposed setback variance at 2001 and 2003 S Lamar.

Through our development process we were also impacted by compatibility standards from a property to our north. Our parcel may look larger than the subject; nevertheless, we not only had to comply with compatibility standards but we also have a public sewer easement down our driveway which significantly narrows the width of our parcel. We needed to reconfigure our site plan and building heights to accommodate the compatibility standards pursuant to Section 25-2-1063 (B). In doing so, we complicated the construction of our facility due to various floor heights which increased our construction costs. Additionally, because of compatibility standards, we were forced to decrease our net rentable area. Both the increase in costs and loss of square feet have substantial negative effects on the economics of our project. Allowing the applicant a variance to the same code that we were required to comply with, places us at a significant disadvantage to them or any other developer in the South Lamar neighborhood who is granted similar variances.

Additionally, per ordinance 20070201-054, convenience storage is a prohibited use on this property per the conditional overlay district. This reason alone should be enough to reject this variance.

Please do not hesitate to reach out with questions.

Brian R. Caster
A-1 Austin South Lamar, L.P.
1708 & 1800 South Lamar

5/30

Heldenfels, Leane

From: Tyler Grooms [REDACTED]
Sent: Friday, August 05, 2016 1:11 PM
To: Heldenfels, Leane
Cc: Josh Lickteig
Subject: Objection to Case C15-2016-0087, 2001 and 2003 S Lamar Blvd
[REDACTED]

Leane,

I am writing on behalf of Alcove South Lamar, the owner of 1341 W Mary Street to strongly object to the proposed setback variance at 2001 and 2003 S Lamar.

Through our development process we were also impacted by compatibility standards from a property to our east. Our lot is narrower and smaller than the subject property but we were able to reconfigure our site plan and building heights to accommodate the compatibility standards per the spirit of Section 25-2-1063 (B). In doing so we compromised our ability to lay out an efficient building and access on our site which increased our construction costs and decreased our rentable square feet, both of which had considerable implications for the economics of our project. Thus by allowing the applicant a variance to the same code that we were required to comply with, we are put at a significant disadvantage to them or any other developer in the sensitive South Lamar neighborhoods who is granted similar variances.

Additionally, per ordinance 20070201-054, convenience storage is a prohibited use on this property per the conditional overlay district. This reason alone should be enough to reject this variance.

Please don't hesitate to reach out with questions.

Tyler Grooms
Alcove South Lamar, LP
1341 W. Mary Street, Austin, TX

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: C15-2016-0087, 2001 and 03 S. Lamar Blvd.

Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov
Public Hearing: Board of Adjustment, August 8th, 2016

LEANE MEKINLEY

Your Name (please print)

2001 KINNEY AVE. 78704

Your address(es) affected by this application

LMK

Signature

Daytime Telephone: 92-445-5202

Comments:

opposed

Comments must be returned by noon the day of the hearing in order to be seen by the Board at this hearing. They may be sent via:

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: leaneheldenfels@austintexas.gov

357

51
32

Heldenfels, Leane

From: Zilker NA <[REDACTED]>
Sent: Monday, August 01, 2016 10:22 PM
To: Heldenfels, Leane
Cc: [REDACTED]
Subject: C15-2016-0087, 2001-2003 S. Lamar
Attachments: 2001-2003SLamar ZNA letter&exhibits.pdf

Hello, Ms. Heldenfels.

This is regarding the variance requested at 2001 & 2003 S. Lamar, C15-2016-0087, scheduled for the Board of Adjustment on August 8. The attached PDF contains a letter of opposition from the Zilker Neighborhood Association Executive Committee along with supporting exhibits. Please note that we are requesting that the application be rejected as incomplete because it does not include the required site plans and because it requires a zoning change that is not within the Board's authority.

Please include the letter and exhibits in the Board's backup material and in the file for this case.

Many thanks,
Lorraine Atherton
(512-447-7681)

11/33

Zilker Neighborhood Association

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

August 1, 2016

Board of Adjustment
City of Austin Watershed Protection and
Development Review Dept.

Re: Variance request C15-2016-0087, 2001-2003 South Lamar

Dear Chairman and Board Members:

The executive committee of the Zilker Neighborhood Association is opposed to the variance requested by Greg Smith and William Faust at 2001 and 2003 S. Lamar, Case number C15-2016-0087, because the application is incomplete, the proposed use is prohibited in the zoning ordinance, and the request meets none of the required findings.

Incomplete Application

Mr. Smith, on behalf of 2001 S. Lamar L.L.C. is seeking a variance to allow new construction of four storage units at 2003 S. Lamar, a property owned and developed by Mr. Cuchia. Mr. Smith asserts that compatibility setbacks associated with single-family zoning at 2003 S. Lamar will somehow deprive him of reasonable use of Mr. Cuchia's property. The assertion is difficult to evaluate because Mr. Smith's application does not include a site plan, a rough layout of the proposed construction, or a diagram showing the extent of the compatibility setback. (Please note that under the rules of the Board, a "site plan or survey must be submitted, drawn to scale showing present and proposed construction along with existing structures on all adjacent lots." In cases involving commercial properties and paid agents, we would appreciate it if staff refrained from accepting such incomplete applications and scheduling hearings before the dimensions of the variances are determined.)

Prohibited Use

The ZNA zoning committee, however, is familiar with the site because we worked with Mr. Cuchia in 2006 to rezone his property from SF-3 to Commercial Services. The rezoning ordinance (20070201-054, see ZNA exhibit A) includes a conditional overlay prohibiting convenience storage, among several other undesirable uses. Shortly after that, all of the commercial properties in this block, from West Mary to Oltorf, were included in the "most intense development" category of the Vertical Mixed Use zoning overlay. To encourage increased density and residential uses, these properties have received the most generous and

11/34

flexible zoning in this area. The owners have more options than most owners to maximize the use of their properties within the physical constraints of each site.

According to detailed site, drainage, erosion control, and tree protection plans submitted in 2006 for 2003 S. Lamar, the adjacent SF-3 property that supposedly triggers unreasonable restrictions is surrounded by more than 25 feet of 100-year floodplain, and it appears that Mr. Cuchia's existing office building is built as close to the creek as the 100-year floodplain and the critical water quality zone will allow (see ZNA exhibit B). In other words, the entire compatibility setback is unbuildable. A variance or rezoning of the remaining SF-3 property would not permit any additional construction.

The property at 2001 S. Lamar is about 65 feet away from the SF-3 property and so is not affected by the 25-foot compatibility setback. It should not have been included in the variance request.

Findings

Reasonable Use. The applicable rezoning ordinance (20070201-054) for 2003 S. Lamar prohibits the use proposed by Mr. Smith. The Board's rules state: "The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning." If Mr. Smith wishes to build storage units at 2003 S. Lamar, he must first get the City Council to remove the conditional overlay prohibiting that use. A member of our zoning committee informed Mr. Smith's agent of this early in July.

Even if the proposed use were not prohibited, the definition of "reasonable use" cannot be extended to include new construction within the floodplain. The property is already built to the maximum eastern extent allowed by the drainage and floodplain constraints. The requested variance would not eliminate those physical constraints and so would have no effect on the use of the property.

Hardship. (a) Mr. Smith has not demonstrated that the compatibility setback overlaps any of the buildable areas on this property; we have to conclude that there is no hardship, unique or not. (b) This condition (remnants of SF-3 zoning within or near the floodplain) is general to the area between South Lamar and the railroad tracks and West Bouldin Creek, including Evergreen, West Mary, West Oltorf, Thornton, and so on. ZNA has worked on at least 9 similar cases in this area. Most of them have been resolved by rezoning, including the rezoning of 2003 S. Lamar in 2006. New construction on a property that is already conforming with zoning and site development regulations cannot possibly claim a qualifying hardship. If a new owner wishes to redevelop the property, the new construction must meet current zoning and site development regulations.

Area Character. The purpose of the Vertical Mixed Use overlay is to replace the old storage units, warehouses, and car lots along South Lamar with residential and retail mixed uses. Mr.

J/35

Smith is proposing to do the opposite, by expanding the old storage units. In most of the similar cases our zoning committee has reviewed, the owners of the SF-3 remnants have been concerned about impairing the current or future use or value of their properties, which is why they refuse to rezone. Our zoning committee is concerned that variances such as these will impair the purpose of the VMU overlay, which the general membership supported in order to encourage mixed use redevelopment in appropriate areas.

To summarize, we request that the variance application be rejected because:

1. It is incomplete. Mr. Smith has not demonstrated that the compatibility setback overlaps any of the buildable areas on this property.
2. The proposed use is prohibited by rezoning ordinance 20070201-054. The Board does not have the authority to overturn that ordinance or remove that prohibition; Mr. Smith must ask the City Council to do that.

If Mr. Smith returns with a completed application and a permitted use, we request that the variance be denied because:

1. The existing office building proves that the zoning regulations allow for reasonable use.
2. There is no qualifying hardship.
3. The use of adjacent properties and the purpose of the current zoning will be impaired.

Thank you for your service on the Board of Adjustment.

Sincerely yours,



Lorraine Atherton,
on behalf of the ZNA Executive Committee

PUBLIC HEARING INFORMATION

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- 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.

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Case Number: C15-2016-0087, 2001 and 03 S. Lamar Blvd.

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

Public Hearing: Board of Adjustment, August 8th, 2016

Camille Perry

Your Name (please print)

2211 Eva Lane, Austin, TX 78704-4911

Your address(es) affected by this application

Camille M. Perry

Signature

July 30, 2016

Date

Daytime Telephone: (512) 444-0754

Comments: I believe the setbacks required are

needed for safety standards and in

particular the "O" setback required

would infringe on the property rights

of adjacent owners. Granting this

would set a bad precedent. The

City should allow for building to

be built dangerously close to each other's to streets.

Comments must be returned by noon the day of the hearing in order to be seen by the Board at this hearing. They may be sent via:

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: leaneheldenfels@austintexas.gov

217

