

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2016-0105 – 3920 S. IH-35

REQUEST:

C14-2016-0105 – 3920 S. IH-35 – District 3 – Approve second and third reading of an ordinance amending City Code Title 25-2 by rezoning property locally known as 3920 S. IH-35 (Blunn Creek Watershed) from general office – neighborhood plan (GO-NP) district zoning to general commercial services - mixed use – neighborhood plan (CS-MU-NP) combining district zoning. Staff Recommendation: To grant general commercial services- conditional overlay – neighborhood plan (CS-CO-NP) combining district zoning. First reading approved March 2, 2017 on consent, vote 10-0 (CM Kitchen off the Dais). Agent: Alice Glasco Consulting (Alice Glasco). Owner: 3920 IH-35 Holdings, LTD (Jimmy Nassour). City Staff: Andrew Moore, 512-974-7604.

This property is located just north of E. Ben White Blvd/Hwy 71 E on the southbound access road of Interstate 35. It is undeveloped with office buildings to the north and south, a cemetery to the west and office to the east across Interstate 35. The applicant is proposing to build a mixed use development and requests the vertical (V) designation in order to use the density bonus provision and provide affordable housing units. Because of the proximity to a major highway interchange staff supports the change to general commercial services (CS). However, we do not recommend a residential use adjacent to a highway for health reasons (air and noise). Additionally, the access road is not a designated core-transit corridor where vertical mixed use is intended. The South River City Citizens contact team supports the request. The owners of the Southfield office building have expressed concerns over access to the property and overflow parking. However, an access easement was granted via restrictive covenant in 1983. At first reading staff added the requirement of a fence along the southern boundary as agreed upon by the applicant and neighbor.

DISTRICT AREA: 3

PROPERTY OWNER: 3920 IH-35 Holdings, LTD (Jimmy Nassour)

AGENT: Alice Glasco Consulting (Alice Glasco)

ISSUES: None at this time.

DATE OF FIRST READING/VOTE: March 2, 2017/11-0

CITY COUNCIL DATE: March 23, 2017

CITY COUNCIL ACTION:

ASSIGNED STAFF: Andrew Moore

PHONE: 512-974-7604

EMAIL: andrew.moore@austintexas.gov

ZONING CHANGE REVIEW SHEET

CASE: C14-2016-0105 / 3920 S. IH 35 **P.C. DATE:** January 24, 2017
February 14, 2017

ADDRESS: 3920 S. IH 35 SB **AREA:** 1.13 acres

OWNER: 3920 IH 35 Holdings, LTD. (Jimmy Nassour)

APPLICANT: Alice Glasco Consulting (Alice Glasco)

NEIGHBORHOOD PLAN AREA: Greater South River City Combined Neighborhood Plan

ZONING FROM: General Office - Neighborhood Plan (GO-NP).

ZONING REQUEST TO: General commercial services – Vertical mixed use – Conditional overlay – Neighborhood plan (CS-MU-V-CO-NP).

STAFF RECOMMENDATION:

Staff recommends General commercial services- Conditional overlay – Neighborhood plan (CS-CO-NP).

Conditional Overlay will restrict the site to 2000 vehicle trips and prohibit the following uses:

Adult-Oriented Business

Alternative Financial Services

Bail Bonds

Pawn Shop Services

PLANNING COMMISSION ACTION:

JANUARY 24, 2017 – POSTPONEMENT REQUEST TO FEBRUARY 14, 2017 BY NEIGHBORS APPROVED ON CONSENT, 10-0 [T. WHITE 1ST, P. SEEGER 2ND, F. KAZI, S. OLIVER, J. VELA ABSENT].

FEBRUARY 14, 2017 – APPROVED STAFF RECOMMENDATION OF GENERAL COMMERCIAL SERVICES – CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (CS-CO-NP) WITH ADDITIONAL CONDITIONS, VOTE 10-0 [T. WHITE 1ST, J. VELA 2ND, S. OLIVER, J. SHEIH AND N. ZARAGOZA ABSENT].

THE FOLLOWING USES WERE ALSO PROHIBITED:

Vehicle storage

Cemetery

Funeral Home

Maintenance and Service Facilities

Storage of vehicles or equipment are prohibited as an accessory use to Convenience

Storage

CITY COUNCIL ACTION:

FEBRUARY 16, 2017 – POSTPONEMENT REQUEST BY APPLICANT TO MARCH 2, 2017 APPROVED ON CONSENT, 11-0.

MARCH 2, 2017 – APPROVED CS-CO-NP ON FIRST READING ON CONSENT, VOTE 11-0. CONDITION ADDED TO REQUIRE A FENCE ON THE SOUTHERN BOUNDARY.

DEPARTMENT COMMENTS:

This property is located just to the north of E. Ben White Blvd/Hwy 71 E on the southbound access road of Interstate 35. It is undeveloped with office buildings to the north and south, a cemetery to the west and office to the east across Interstate 35. The site is flat with light vegetation. It is not impacted or adjacent to a flood plain or creek buffer nor is it subject to compatibility standards. The applicant originally proposed to build a mixed use development and is in support of the staff recommendation for general commercial services – neighborhood plan

While researching the zoning history of the property there were some discrepancies found. The ordinance for the adoption of the Greater South River City Neighborhood Plan lists the previous zoning as SF-3. However, in 1993, zoning case C14-93-0156 changed the zoning from SF-3 to GR. At that time, the I-35/E. Ben White Blvd/Hwy 71 interchange had not been constructed. There was a large CS tract at the intersection. That property was used for the subsequent highway interchange expansion and access road.

Because of the proximity to a major highway interchange staff supports the change to general commercial services (CS). However, we do not recommend a residential use adjacent to a highway for health reasons (air and noise). Additionally, the IH-35 Access road is not a designated core-transit corridor where vertical mixed use is intended.

ISSUES:

The adjacent property owner to the south has concerns regarding off-site parking if a multifamily development occurs and requests a fence and vegetative buffer along the southern boundary of 3920 S. IH-35 whether mixed use is granted or not. The subject property has an access easement to the driveway on the southern boundary. The Greater South River City Neighborhood Contact Team has rescinded its support for the request (see attached letter). They are requesting that on-site drainage detention be required with the zoning case. Watershed and Legal staff have advised that a drainage engineering study is required prior to determining whether on-site detention should be required. Watershed staff have also advised that because of the location of this property at the top or headwaters of the watershed, on-site detention is appropriate. However, a drainage analysis is needed to confirm. That analysis is not required for zoning.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO-NP	Undeveloped;
<i>West</i>	P-NP	Cemetery
<i>North</i>	GO-NP	Office
<i>East</i>	GR-NP	I-35 ROW, Office (IRS)
<i>South</i>	GR-NP	Office

TIA: Not required. The applicant has agreed to limit the site to 2000 trips/day.

WATERSHED: Blunn Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

Southeast Austin Neighborhood Alliance

Crossing Gardenhome Owners Assn. (The)
 Austin Neighborhoods Council
 East Riverside / Oltorf Neighborhood Plan Contact
 Homeless Neighborhood Assn.
 Bike Austin
 Austin Parks Foundation
 Sierra Club, Austin Regional Group
 Catholic Cemetery Association
 Del Valle Community Coalition
 Friends of Austin Neighborhoods
 Austin Heritage Tree Foundation
 SEL Texas
 GO Austin/Vamos Austin (GAVA)-Dove Springs
 Greater SRCC Neighborhood Planning Team
 Preservation Austin
 South Austin Commercial Alliance
 South Central Coalition
 South River City Citizens Association
 Zoning Committee of South River City Citizens

SCHOOLS:

Galindo Elementary School Fulmore Middle School Travis High School

ABUTTING STREETS, SERVICES, & FACILITIES:

Name	ROW	Pave-ment	Classifi-cation	Side-walks	Bus Service	Bicycle Plan
South IH-35 SB	585 feet	Varies	Freeway-6 lanes	Yes - on service road	Yes 300 on E. Ben White Access Road.	Yes

ZONING CASE HISTORIES:

NUMBER	REQUEST	LAND USE COMMISSION	CITY COUNCIL
SITE			
3920 S IH-35 C14-05-0138 SRCC Neighborhood Plan	SF-3 to GO-NP	Recommended GO-NP	Approved GO-NP; 9/29/2005
C14-93-0156 3920-3926 S. IH-35 SB Service Road	SF-3 to GR	Recommended GR-CO (2000 trip limitation)	Approved GR-CO 7/28/1994

NUMBER	REQUEST	LAND USE COMMISSION	CITY COUNCIL
--------	---------	---------------------	--------------

WEST			
Assumption Cemetery C14-05-0138 SRCC Neighborhood Plan	P to P-NP	Recommended P-NP	Approved P-NP; 9/29/2005
Assumption Cemetery 3650 S. IH-35 Service	SF-3 to P	Recommended P	Approved P; 12/1/1994
NORTH & EAST			
3910 S. IH-35 C14-05-0138 SRCC Neighborhood Plan	LR to GO-NP	Recommended GO- NP	Approved GO-NP; 9/29/2005
3910 S IH-35 C14R-84-058	A to LR	Recommended LR	Approved; LR (Included site plan); 06/7/1984
IRS 3651 S. IH 35 NB Service Rd	GR to GR-NP	Recommended GR- NP	Approved GR-NP; 11/16/2006
SOUTH			
4020 S. IH-35 C14-05-0138 SRCC Neighborhood Plan	GR to GR-NP	Recommended GR- NP	Approved GR-NP; 9/29/2005
4000 S. IH-35 C14-05-0138 SRCC Neighborhood Plan	GO-CO to GO- CO-NP	Recommended GO- CO-NP	Approved GO-CO-NP 9/29/2005

CASE MANAGER: Andrew Moore **PHONE:** 512-974-7604
e-mail address: andrew.moore@austintexas.gov

DSD Transportation Review - Leo Xu - (512) 974-2881

- TR1. FYI, additional right-of-way maybe required at the time of subdivision and/or site plan.
- TR2. A Traffic Impact Analysis shall be required at the time of site plan if triggered per LDC 25-6-113. LDC, Sec. 25-6-113.
- TR3. FYI, Chad Crager, Urban Trails, Public Works Department and Nathan Wilkes, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

TR4. According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a wide curb bike facility is recommended for S. IH 35 Frontage Road.

TR5. Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
S. IH 35 Frontage Road	585'	Varies	Freeway 6 Lanes	Yes	Yes	Yes

NPZ Environmental Review - Mike McDougal 512-974-6380

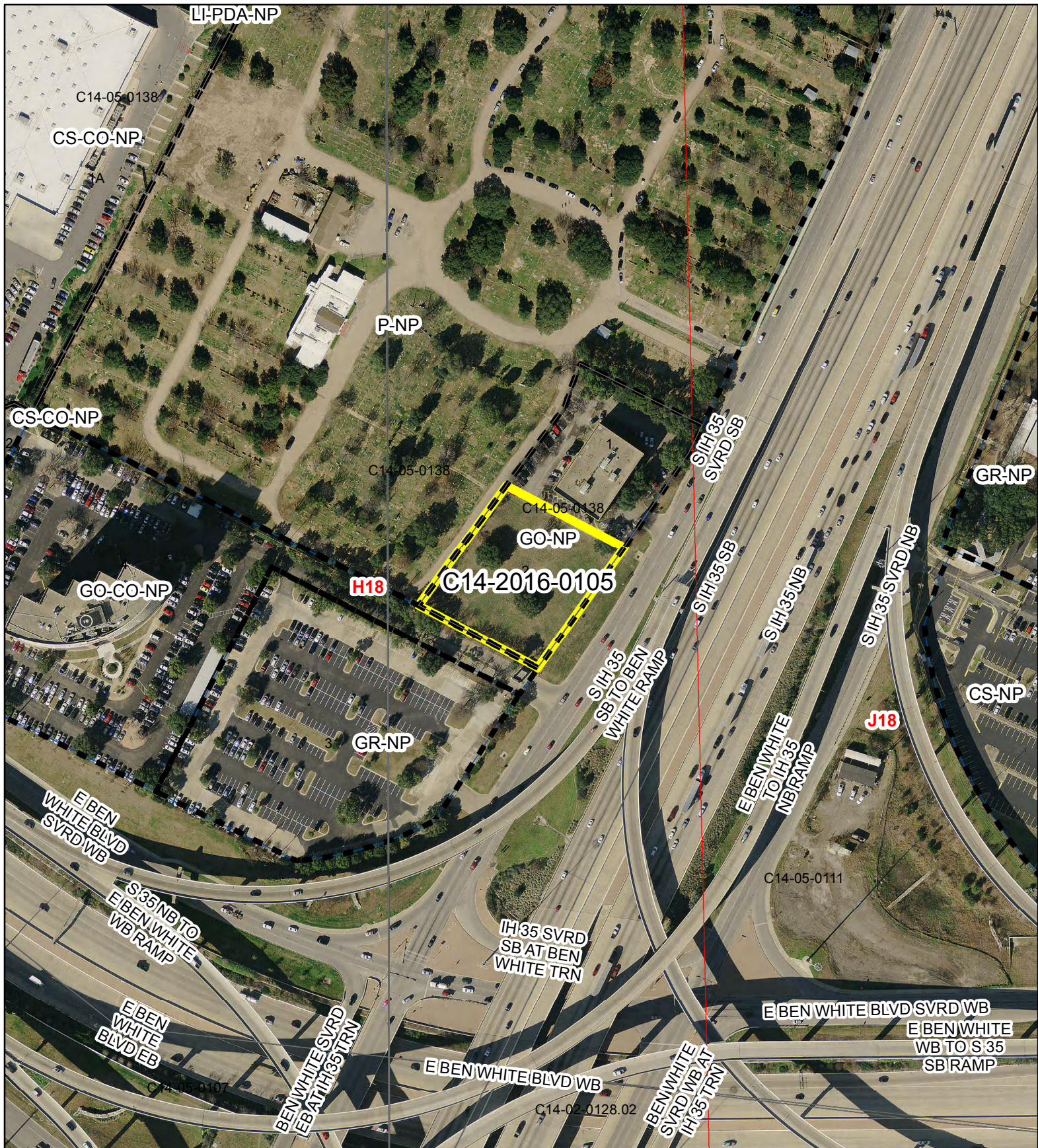
1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Blunn Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 sq.ft. cumulative is exceeded, and on site control for the two-year storm.
7. At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

NPZ Site Plan Review - Michael Simmons-Smith 512-974-1225

- SP 1. No Site Plan Review comments are offered at this time. Comments will be provided upon submittal and review of engineered plans accompanying the Site Development Permit application(s).

NPZ Austin Water Utility Review - Neil Kepple 512-972-0077

FYI: The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. A water Service Extension Request will be required and possibly a wastewater service extension request depending on the development plans submitted. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



ZONING

ZONING CASE#: C14-2016-0105
 LOCATION: 3920 SOUTH IH 35
 SUBJECT AREA: 1.13 ACRES
 GRID: H18
 MANAGER: ANDREW MOORE



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

N



1' = 200'



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY



CREEK BUFFER

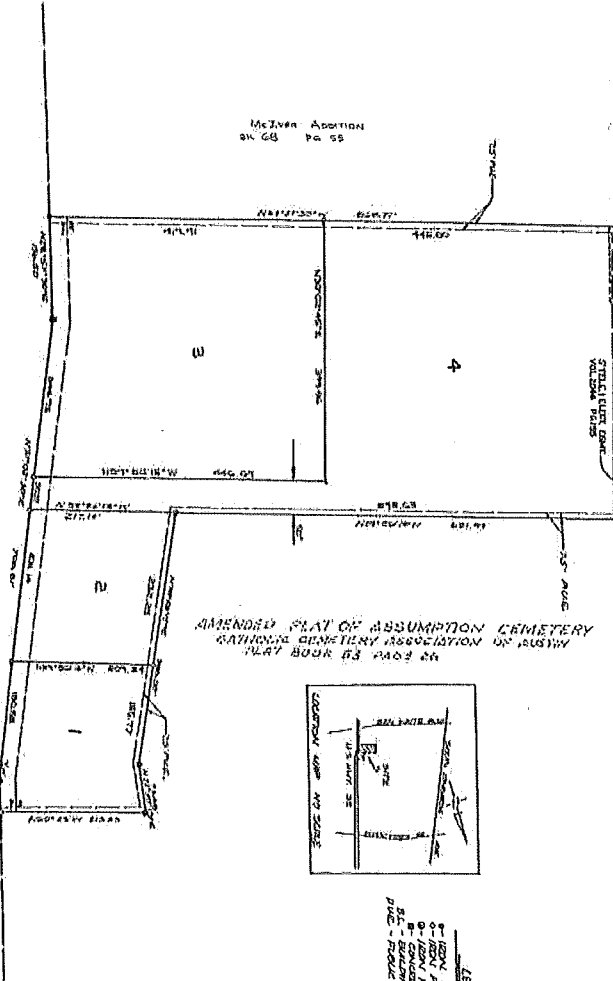
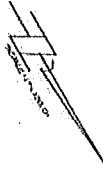
PERRY ADDITION

SS 1000

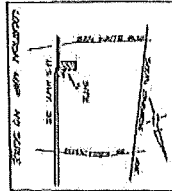
Olson, J. J.
Cemetery Addition
Vol 83 Page 1506

Olson, J. J. & Nelson, S. C.
Vol 83 Page 1506

McIver Addition
Vol 83 Page 1506



AMENDED PLAT OF ASSUMPTION CEMETERY
CATHOLIC CEMETERY ASSOCIATION OF DALLAS
PLAT BOOK 83 PAGE 1506



- LEGEND
- 1-100' WIDE ROAD
 - 2-100' WIDE ROAD
 - 3-100' WIDE ROAD
 - 4-100' WIDE ROAD
 - 5-100' WIDE ROAD
 - 6-100' WIDE ROAD
 - 7-100' WIDE ROAD
 - 8-100' WIDE ROAD
 - 9-100' WIDE ROAD
 - 10-100' WIDE ROAD
 - 11-100' WIDE ROAD
 - 12-100' WIDE ROAD
 - 13-100' WIDE ROAD
 - 14-100' WIDE ROAD
 - 15-100' WIDE ROAD
 - 16-100' WIDE ROAD
 - 17-100' WIDE ROAD
 - 18-100' WIDE ROAD
 - 19-100' WIDE ROAD
 - 20-100' WIDE ROAD
 - 21-100' WIDE ROAD
 - 22-100' WIDE ROAD
 - 23-100' WIDE ROAD
 - 24-100' WIDE ROAD
 - 25-100' WIDE ROAD
 - 26-100' WIDE ROAD
 - 27-100' WIDE ROAD
 - 28-100' WIDE ROAD
 - 29-100' WIDE ROAD
 - 30-100' WIDE ROAD
 - 31-100' WIDE ROAD
 - 32-100' WIDE ROAD
 - 33-100' WIDE ROAD
 - 34-100' WIDE ROAD
 - 35-100' WIDE ROAD
 - 36-100' WIDE ROAD
 - 37-100' WIDE ROAD
 - 38-100' WIDE ROAD
 - 39-100' WIDE ROAD
 - 40-100' WIDE ROAD
 - 41-100' WIDE ROAD
 - 42-100' WIDE ROAD
 - 43-100' WIDE ROAD
 - 44-100' WIDE ROAD
 - 45-100' WIDE ROAD
 - 46-100' WIDE ROAD
 - 47-100' WIDE ROAD
 - 48-100' WIDE ROAD
 - 49-100' WIDE ROAD
 - 50-100' WIDE ROAD
 - 51-100' WIDE ROAD
 - 52-100' WIDE ROAD
 - 53-100' WIDE ROAD
 - 54-100' WIDE ROAD
 - 55-100' WIDE ROAD
 - 56-100' WIDE ROAD
 - 57-100' WIDE ROAD
 - 58-100' WIDE ROAD
 - 59-100' WIDE ROAD
 - 60-100' WIDE ROAD
 - 61-100' WIDE ROAD
 - 62-100' WIDE ROAD
 - 63-100' WIDE ROAD
 - 64-100' WIDE ROAD
 - 65-100' WIDE ROAD
 - 66-100' WIDE ROAD
 - 67-100' WIDE ROAD
 - 68-100' WIDE ROAD
 - 69-100' WIDE ROAD
 - 70-100' WIDE ROAD
 - 71-100' WIDE ROAD
 - 72-100' WIDE ROAD
 - 73-100' WIDE ROAD
 - 74-100' WIDE ROAD
 - 75-100' WIDE ROAD
 - 76-100' WIDE ROAD
 - 77-100' WIDE ROAD
 - 78-100' WIDE ROAD
 - 79-100' WIDE ROAD
 - 80-100' WIDE ROAD
 - 81-100' WIDE ROAD
 - 82-100' WIDE ROAD
 - 83-100' WIDE ROAD
 - 84-100' WIDE ROAD
 - 85-100' WIDE ROAD
 - 86-100' WIDE ROAD
 - 87-100' WIDE ROAD
 - 88-100' WIDE ROAD
 - 89-100' WIDE ROAD
 - 90-100' WIDE ROAD
 - 91-100' WIDE ROAD
 - 92-100' WIDE ROAD
 - 93-100' WIDE ROAD
 - 94-100' WIDE ROAD
 - 95-100' WIDE ROAD
 - 96-100' WIDE ROAD
 - 97-100' WIDE ROAD
 - 98-100' WIDE ROAD
 - 99-100' WIDE ROAD
 - 100-100' WIDE ROAD

FOR RESTRICTIVE COVENANT SEE
VOL. 8147 PG. 10 TRAVIS COUNTY DEED RECORDS.
INTERSTATE HIGHWAY NO. 35
(REFER TO DEED RECORDS)

PERRY ADDITION

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Michael F. George, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and considerations therein expressed, given under my hand and seal of office, this 6th day of May, 1983, A.D.

WITNESS MY HAND THIS DAY 6th day of May, 1983, A.D.

Michael F. George
MICHAEL F. GEORGE
PERRY INVESTMENTS, INC.

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Michael F. George, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and considerations therein expressed, given under my hand and seal of office, this 6th day of May, 1983, A.D.

APPROVED FOR ACCEPTANCE:

DATE JUNE 28, 1983

ACCEPTED AND AUTHORIZED FOR RELEASE BY THE CITY PLANNING COMMISSION, CITY OF AUSTIN, TEXAS, JUNE 28

William M. Manning
WILLIAM M. MANNING

STATE OF TEXAS
COUNTY OF TRAVIS

I, JAMES HENDERSON, CLERK OF THE COUNTY COURT, within and for the County and State aforesaid do hereby certify that the within and foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 30th day of June, 1983, A.D. at 4:35 o'clock P.M., in the City of Austin, State of Texas, in the 130th volume of said County and State in Plat Book 83, Page 130-11-802.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT OF SAID COUNTY, THIS 30th DAY OF JUNE, 1983, A.D.

DEPUTY L. Jones
L. JONES

FILED FOR RECORD THIS 30th DAY OF JUNE, 1983, A.D.

DEPUTY L. Jones
L. JONES

I, WILEY E. MARK, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING, AND I HEREBY CERTIFY THAT THIS PLAT COMPILES WITH CHAPTER 113 OF THE AUSTIN CITY CODE, IS TRUE AND CORRECT TO THE BEST OF MY ABILITY, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY HEREIN DESCRIBED.

EMPLOYED BY: Wiley E. Mark, P.E., S.T.
CARLSON, DIPPEL & MARK SURVEYING COMPANY
2459 CAPITAL OF TEXAS HIGHWAY, SUITE 204
AUSTIN, TEXAS 78746



EMPLOYED BY: Keith Brock Spring DATE: 4/83
CITY OF AUSTIN, TEXAS
CITY PLANNING DEPT.
AUSTIN, TEXAS 78702



1. DISTANCE BETWEEN SIDEWALK LOCATION ON THE SUBDIVISION SIDE OF THE HIGHWAY AND THE SIDEWALK SHALL BE NOTED AND SHALL BE NOTED TO BE NEARLY AS THE SIDEWALK APPEARS ON THE MAP OR OTHERWISE BY OCCUPANCY.

2. DISTANCE BETWEEN SIDEWALK LOCATION ON THE SUBDIVISION SIDE OF THE HIGHWAY SHALL BE NOTED TO BE NEARLY AS THE SIDEWALK APPEARS ON THE MAP OR OTHERWISE BY OCCUPANCY.

3. DISTANCE BETWEEN SIDEWALK LOCATION ON THE SUBDIVISION SIDE OF THE HIGHWAY SHALL BE NOTED TO BE NEARLY AS THE SIDEWALK APPEARS ON THE MAP OR OTHERWISE BY OCCUPANCY.

4. DISTANCE BETWEEN SIDEWALK LOCATION ON THE SUBDIVISION SIDE OF THE HIGHWAY SHALL BE NOTED TO BE NEARLY AS THE SIDEWALK APPEARS ON THE MAP OR OTHERWISE BY OCCUPANCY.

RECEIVED
JAN 10 1983
CITY PLANNING
CITY OF AUSTIN

Rest: Lots 1-4 Vol. 8147 Pg. 10

C85-83-004

17.00
K

EASEMENT

FILM CODE

00005503160

STATE OF TEXAS §

COUNTY OF TRAVIS §

§
§

KNOW ALL MEN BY THESE PRESENTS:

That SOUTHFIELD REALTY, L.P., (the "Grantor"), for good and valuable consideration to it in hand paid by SHANER HOTEL GROUP PROPERTIES ONE LIMITED PARTNERSHIP (the "Grantee"), the receipt and sufficiency of which is hereby acknowledged, has GRANTED AND CONVEYED, and by these presents does GRANT AND CONVEY unto Grantee, its successors and assigns, a non-exclusive vehicular and pedestrian ingress and egress easement and right-of-way (the "Right-of-Way") in, along, upon, over and out of the tract of real property more particularly described as follows; to wit:

All of that certain tract or parcel of land out of the Isaac Decker League in Travis County, Texas, same being a portion of Lot 4, Perry Addition, a Subdivision in the City of Austin, Travis County, Texas, as recorded in Plat Book 83, Pages 150-B & 150-C of the Plat Records of Travis County, Texas, said Right-of-Way being more particularly described by metes and bounds on Exhibit "A", attached hereto and made a part hereof for all purposes;

together with free and uninterrupted ingress, egress and regress to and for the Grantee, its successors and assigns, in, along, upon, over and out of the Right-of-Way.

TO HAVE AND TO HOLD the above-described Right-of-Way unto Grantee, its successors and assigns, forever. Grantee is the owner of the property more particularly described as follows; to wit:

Lot 2, Perry Addition, a Subdivision in the City of Austin, Travis County, Texas, as recorded in Plat Book 83, Pages 150-B & 150-C of the Plat Records of Travis County, Texas ("Lot 2").

The Right-of-Way is appurtenant to Lot 2. The term "successors and assigns" shall include and be limited to the current and all subsequent owners of said Lot 2.

Grantee is also the owner of the real property more particularly described as follows:

Lot 3, Perry Addition, a Subdivision in the City of Austin, Travis County, Texas, as recorded in Plat Book 83, Pages 150-B & 150-C of the Plat Records of Travis County, Texas ("Lot 3").

EASEMENT

re: Shaner Hotel Group Properties One Limited Partnership

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12799 1908

Lot 3 is currently developed as a hotel. In the event Lot 2 is developed as a hotel, then Lot 2 shall have the right of cross access to and from Lot 3 over the Right of Way and Lot 3 shall have the right of cross access to and from Lot 2 over the Right of Way. In the event Grantee shall not develop Lot 2 as a hotel, then without impairing or limiting, ingress, egress and regress to and from Lot 2, or the Right-of-Way, including the free and uninterrupted ingress, egress and regress in, along, upon, over and out of the Right-of-Way for the benefit of Lot 2, at the option of Grantor, cross access from Lot 2 to Lot 3 shall not be allowed. Nothing herein shall limit or modify ingress, egress and regress to and from Lot 2 or the Right-of-Way, or in any manner limit or impair the access in, along, upon, over and out of the Right-of-Way to and from Lot 2 other than as expressly set out above.

Further, Lot 4 is burdened by an Easement in favor of Lot 3, recorded in Volume 8626, Page 350, Real Property Records of Travis County, Texas. Nothing herein shall limit or modify said Easement or the rights therein in any manner whatsoever.

It is expressly understood that the Right-of-Way is a private easement for the use of Grantee, its successors, assigns, licensees and invitees and not for the use or benefit of the public in general and nothing herein shall be construed or deemed to be a dedication of any easement to or for the use or benefit of the public.

Grantor hereby expressly retains the right to the full and uninterrupted use of the Right-of-Way for vehicular and pedestrian ingress and egress and to grant and convey similar rights and easements over the Right-of-Way to such other persons as Grantor deems proper; provided that the use of the Right-of-Way by such other persons does not prevent the use of same by Grantee, its successors, assigns, licensees and invitees for the purposes and uses herein described.

Notwithstanding any of the terms hereof to the contrary the conveyance of the Right-of-Way is expressly subject to a seven and one-half (7 1/2) foot public utility easement to the City of Austin, recorded in Volume 8514, page 35 and Volume 8460, Page 906, Travis County Real Property Records.

Grantor's Address is: c/o Tarantino Properties
2000 Bering
Houston, Texas 77057
Attention: _____
Facsimile No. (713) 954-1771

Grantee's Address is: c/o Shaner Hotel Group
303 Science Park Road
State College, Pennsylvania 16803
Attention: Peter Hulburt
Facsimile No. (814) 234-3919

EASEMENT

revised/alter property 1.2 a q easelot2.two

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12799 1909

This Easement in the case styled Shaner Hotel Group Properties One Limited Partnership v. Southfield Realty Group, L.P., and The City of Austin, Texas is delivered pursuant to a certain Agreed Judgment rendered the 27th day of August, 1996 between Grantor and Grantee which is incorporated herein by reference. A copy of such Agreed Judgment is available by notice to the parties.

EXECUTED this 18 day of OCTOBER, 1996.

SOUTHFIELD REALTY, L.P.

BY: [Signature]

Type or

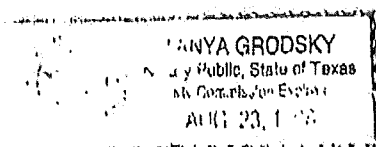
Print Name:

Title: Attorney in Fact

THE STATE OF §

COUNTY OF §

This instrument was acknowledged before me on 10/18, 1996 by Jimmy Nassour, Attorney in Fact, general partner of SOUTHFIELD REALTY, L.P., a Limited Partnership, in the capacity therein stated and on behalf of said limited partnership.



[Signature]
Notary Public, State of Tx

EASEMENT

re:set\shaner\perry-1.2 acq.easelot2.twn

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12799 1910

EXHIBIT "A"

FIELD NOTES
FOR
CARPENTER AND ASSOCIATES

50 FOOT INGRESS AND EGRESS EASEMENT

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE ISAAC DECKER LEAGUE IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF LOT 4, PERRY ADDITION, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS AS RECORDED IN PLAT BOOK 83, PAGES 150-B & 150-C OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID 50 FOOT EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at an iron pin found in the West r.o.w. line of Interregional Highway No. 35 frontage road, same being the most Northeast corner of Lot C, McIver Addition, a subdivision in the City of Austin, Travis County, Texas as recorded in Plat Book 68, Page 55 of the Plat Records of Travis County, Texas, also being the Southeast corner of Lot 3 of the said Perry Addition;

THENCE along the West r.o.w. of Interregional Highway No. 35 frontage road, the following courses:

N 28° 58' E for a distance of 156.50 feet to a concrete highway monument found for an angle point,

N 37° 03' E for a distance of 244.75 feet to an iron pin found, same being the Northeast corner of the said Lot 3 and the most Northerly Southeast corner of Lot 4 of the said Perry Addition for the Southeast corner and PLACE OF BEGINNING hereof;

THENCE departing the West r.o.w. line of Interregional Highway No. 35 frontage road and with the North line of the said Lot 3, N 59° 56' W for a distance of 446.69 feet to an iron pin found, same being the Northwest corner of the said Lot 3 for the Southwest corner hereof;

THENCE N 30° 03' E for a distance of 50.00 feet to a point in the South line of the Amended Plat of Assumption Cemetery, a subdivision in the City of Austin, Travis County, Texas as recorded in Plat Book 53, Page 26 of the Plat Records of Travis County, Texas, for the Northwest corner hereof;

THENCE with the South line of the said Assumption Cemetery as found fenced and used upon the ground, S 59° 56' E at a distance of 235.69 feet pass an iron pipe found, said pipe being the Southwest corner of Lot 2 of the said Perry Addition for a total distance of 452.83 feet to an iron pin found in the West r.o.w. line of Interregional Highway No. 35 frontage road, same being the Southeast corner of the said Lot 2 for the Northeast corner hereof;

THENCE along the West r.o.w. line of Interregional Highway No. 35 frontage road, S 37° 03' W for a distance of 50.37 feet to the PLACE OF BEGINNING.

AS PREPARED BY:
W. HARVEY SMITH SURVEYOR, INC.
November 21, 1983

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12799 1911

8626 332

I, Dana DeBenedictis County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy of same as appears of record in my office. Witness my hand and seal of office on



MAY 22 1996
Dana DeBenedictis, County Clerk
By Deputy

M. Norris

FILED

96 OCT 23 AM 11:48

DANA DESAUVOR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Return:

Martin Drought & Jones
300 Convent St
San Antonio, TX 78205-3789

OCT 18 1996



Martin Drought & Jones
COUNTY CLERK
TRAVIS COUNTY, TEXAS

EXHIBIT 1.0.

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12799 1912

RECEIPT: ADDITIONAL TRAVIS COUNTY DEPT. REGULAR RECORDS \$17.00
CASHIER: BANC FILE DATE: 10/23/96 TRANS DATE: 10/23/96
PAID BY CASH 2111

FILM CODE

00005528425

1900h

CAUSE NO. 94-14790

SHANER HOTEL GROUP
PROPERTIES ONE
LIMITED PARTNERSHIP,

Plaintiff

vs.

SOUTHFIELD REALTY, L.P.,
and THE CITY OF AUSTIN, TEXAS

Defendants.

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT



OF TRAVIS COUNTY, TEXAS

53rd JUDICIAL DISTRICT

CONSENT JUDGMENT

On August 27, 1996 the above referenced case came on for trial on the merits. The parties agreed to waive a trial by jury and the court commenced with a bench trial. After hearing some testimony, the parties announced that they had reached a settlement of the matter. The court, having reviewed the evidence, the arguments of counsel, and the settlement having been read into the record and judgment rendered on August 27, 1996, finds that the settlement should be approved and that this consent judgment should be entered.

There were also agreed findings entered into between Plaintiff Shaner Hotel Group Properties One Limited Partnership and Defendant Southfield Realty, L.P. The court, having reviewed those findings and having heard the evidence, adopts those findings as its own. The court finds that the Restrictive Covenant dated June 13, 1983, recorded in Volume 8147, page 10, of the Real Property Records of Travis County, Texas (the "Restrictive Covenant") burdens the following described property:

FILED

96 NOV 12 AM 10:54

Amber R. [Signature]
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12845 0118

NY

WL 3367 PG 110

Lot 4, Perry Addition, a subdivision in the City of Austin, Travis County, Texas, of record according to map or plat in Book 83, Pages 150B and 150C, Plat Records of Travis County, Texas ("Lot 4").

Plaintiff Shaner Hotel Group Properties One Limited Partnership is the owner of the following described property:

Lot 2, Perry Addition, a Subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 83, Page 150B and 150C, Plat Records of Travis County, Texas. ("Lot 2"); and

Lot 3, Perry Addition, a Subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record at Volume 83, Page 150B and 150C, Plat Records of Travis County, Texas. ("Lot 3").

The court makes the following findings relating to Lot 2, Lot 3 and Lot 4:

- a) The Restrictive Covenant requires access to Lot 2 across the driveway on Lot 4;
- b) The Restrictive Covenant requires cross access between Lot 3 and Lot 2 across the driveway on Lot 4;
- c) The driveway on Lot 4 is a joint use driveway for Lots 2, 3 and 4 as defined by the Restrictive Covenant; and
- d) The City of Austin has enacted an overall driveway plan as defined in the Restrictive Covenant.

Therefore, it is ordered that Plaintiff Shaner Hotel Group Properties One Limited Partnership is hereby ordered to have an easement for the benefits of Lot 2 and Lot 3 over the driveway on Lot

-2-

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS
12845 0119



VL 3367 Pg 111


4 per the terms of the separately signed and recorded Easement recorded in Volume 12799, Page 198-191 of the Real Property Records of Travis County, Texas.

It is further ordered that the existing median and pylon sign located in the median as they currently exist on the Lot 4 driveway are not in violation of the Restrictive Covenant nor the Easement, except that Lot 4 shall allow construction of the proposed cross walk requiring cuts through the median as reflected on the Lot 2 site plan approved by the City of Austin at Shaner's expense

It is further ordered that all claims by Shaner Hotel Group Properties Limited One Partnership are hereby non-suited without prejudice as to the City of Austin, and that all other relief not granted herein has been denied and this is a final judgment.

It is further ordered that all parties shall pay their own court costs and attorneys fees.

SIGNED this 8th day of ^{November} ~~September~~, 1996.


JUDGE PETE LOWRY

AGREED AS TO FORM AND SUBSTANCE:

MARTIN, DROUGHT & TORRES, INC.

2500 NationsBank Plaza

300 Convent Street

San Antonio, Texas 78205-3789

PH: (210) 227-7591

FAX: (210) 227-7924

By: 

G. WADE CALDWELL

State Bar No. 03621020

-3-

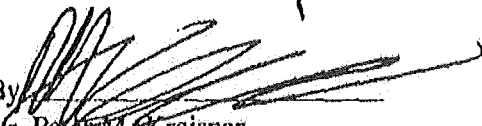
REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12845 0120

VL3367PG112

KREISNER & GLADNEY

Attorneys at Law
1200 San Antonio Street
Austin, Texas 78701
TEL: (512) 474-2900
FAX: (512) 474-4547

By: 
Peter M. Kreisner
State Bar No. 11723500

ASSISTANT CITY ATTORNEY

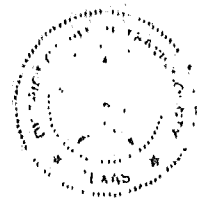
P.O. Box 1088
Austin, Texas 78767-8828
Telephone: (512) 499-2188
Facsimile: (512) 499-6490

By: _____
WILLIAM T. DEANE
State Bar No. 05692500

-4-

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12845 0121



W 335786 113

KREISNER & GLADNEY

Attorneys at Law
1200 San Antonio Street
Austin, Texas 78701
TEL: (512) 474-2900
FAX: (512) 474-4947

By: 

Peter M. Kreisner

State Bar No. 11723500

ASSISTANT CITY ATTORNEY

P.O. Box 1088
Austin, Texas 78767-8828
Telephone: (512) 499-2188
Facsimile: (512) 499-6490

By: 

WILLIAM T. DEANE

State Bar No. 05692500

-4-

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12845 0122

END

M3367pg114

FILED

97 JAN -3 AM 9:48

DANA DEBEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Return:

Martin, Drought & Torre
300 Convent Street
San Antonio, TX. 78205

RECEIVED: ACCEPTED: TRAVIS: 1/3/97: 11:19 AM
CASHIER: 1/3/97: 11:19 AM
PAID BY: DEBZA 2581

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

JAN 3 1997



Dana Debeauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12845 0123



I, AMALIA RODRIGUEZ-MENDOZA, District Clerk
of Travis County, Texas, do hereby certify
that this is a true and correct copy of
as same appears of record in my office, Witness
my hand and seal of office on
day of *December*, 1996



AMALIA RODRIGUEZ-MENDOZA
DISTRICT CLERK
BY *Roxanne Chapin*
DEPUTY

January 17, 2017

City of Austin
Watershed Protection and Planning Department
Attn: Planning and Zoning Commissioners
505 Barton Springs Road
Austin, Texas 78701

RE: Zoning Case C14-2016-0105

Dear Planning Commissioners:

We represent the property owners for the tract located to the south of the proposed zoning case, 3910 South IH35, at the corner of IH35 and Ben White Blvd. Our site has surface parking, which could be used by unauthorized vehicles as overflow parking from a surrounding development and/or commuters into Austin using carpool or bus transportation into the downtown area. We currently have security to help minimize this problem.

We have reviewed the request to change from GO-NP to CS-MU-V-NP and discussed the proposed zoning case with the applicant's agent and with the neighborhood representatives. We would prefer commercial use for the following reasons.

A proposed use or conceptual site plan has not been presented, so we have taken into consideration the possible use which would cause us concern with the MU-V portion of the change. We do not have a problem with the change to CS-NP. Our concerns for the MU-V portion would include the possibility of developing multi-family residential on this site.

Traffic and parking: Our concern is the possible increase of overflow parking issues arising from multifamily development tenants, especially given that the developer may have the opportunity of a decrease in parking requirements. Pedestrian traffic through our property, especially residential, would also be a concern.

We ask that regardless of which zoning the Planning Commission recommends, that a condition be included to require a structural barrier/fencing and vegetation along the southern portion of the abutting property line.

We appreciate your time and consideration of our concerns.

Sincerely,



Annette Grimm

4737 West Emerson St.

Seattle, WA 98199

206-947-0398

agrimm@bbdesk.com

Representative for the Southfield Building Property Owners

February 5, 2017

City Council Members and Planning Commissioners
City of Austin
301 West 2nd Street
Austin, TX 78701

Subject: Case NPA-2016-0022.01
Case C14-2016-0105

I am writing to inform you of the revised position of the Greater South River City (GSRC) Neighborhood Planning Contact Team (NPCT), based on information we received February 2, 2017 regarding the above-referenced application for Neighborhood Plan Amendment and rezoning. The Neighborhood Plan Amendment asks for a land use change from Office to Mixed Use and the rezoning request seeks to change the zoning from GO-NP (General Office) to CS-MU-V-NP (General Commercial Services District – Vertical Mixed Use) for an undetermined use.

Initially the NPCT had unanimously supported the applicant's requests, subject to five conditions, which were outlined in a January 23, 2017 email to Maureen Meredith of the City's Planning Department. Two of those five conditions were:

1. A solid fence / structural barrier and vegetation along the southern property line, regardless of how the property is developed; and
2. The site will be developed with on-site water detention facilities and the developer will not have the option to pay a fee-in-lieu of providing adequate on-site detention.

This week we learned, from an adjacent neighbor of the subject site, that the structure along the southern property line cannot be erected because it conflicts with an easement that was granted to settle a 1996 lawsuit. We also learned this week from Andrew Moore of the City's Planning Department that a private restrictive covenant would be required to ensure that the site is developed with adequate on-site water detention. Since the NPCT does not have, and is not allowed by the City to have, the resources to install or enforce a private restrictive covenant; this condition also cannot be met.

Since two of the five conditions of the NPCT's initial approval cannot be met, the NPCT opposes the applicant's requests for land use and zoning changes. There are additional considerations that led to our decision to oppose the requests. Our understanding is that City Planning Department staff doesn't think this site is suitable for housing because there is no mass transit option available at the site. The residents and their guests will necessarily drive cars, yet there is no legal option for overflow parking. Residents and their guests are likely to park illegally in the Southfield parking lot south of the subject site.

Please don't hesitate to contact me at 512-442-6986 or NPCT Vice-Chair Russell Fraser at 512-447-2284 if you have questions or would like additional information.

Sincerely,



Elloa Mathews, Chair
GSRC NPCT

XC: Maureen Meredith, City of Austin Planning Department