

**ZONING CHANGE REVIEW SHEET****CASE:** C14-2017-0042 (12602 Blackfoot Trail)**Z.A.P. DATE:** June 6, 2017

July 18, 2017

August 15, 2017

**DISTRICT AREA:** 6**ADDRESS:** 6610 McNeil Drive/12602 Blackfoot Trail**OWNER/APPLICANT:** Abraham Birgani**AGENT:** Shaw Hamilton Consultants (Shaw Hamilton)**ZONING FROM:** LR-CO, SF-2 **TO:** CS-1-MU\* **AREA:** 0.57 acres

\*On May 16, 2017, the applicant submitted a letter amending the rezoning request to CS-MU.

**SUMMARY STAFF RECOMMENDATION:**

The staff's recommendation is to grant LR-MU, Neighborhood Commercial-Mixed Use Combining District, zoning.

In addition, if the requested zoning is granted, then 57 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive to accommodate the required ROW for a Major Arterial Divided 4-lane roadway at 114 feet.\*\*

\*\*On July 31, 2017, the DSD Transportation reviewer, Katie Wettick, sent the applicant a memo from the Austin Transportation Department which defers any ROW dedication to the time of site plan review (Please see Attachment D).

**ZONING AND PLATTING COMMISSION RECOMMENDATION:**

6/06/17: Postponed to July 18, 2017 at the applicant's request on consent (10-0, D. Breithaupt-absent); A. Aguirre-1<sup>st</sup>, S. Lavani-2<sup>nd</sup>.

7/18/17: Postponed to August 15, 2017 at the neighborhood's request on consent (10-0, Y. Flores-absent); S. Lavani-1<sup>st</sup>, A. Denkler-2<sup>nd</sup>.

**DEPARTMENT COMMENTS:**

The property in question is currently developed with a vacant commercial structure and a single family residence. The site is surrounded by single family residential uses to the north and east and a day care use (Stepping Stone) to the west. The tracts of land to the south, across McNeil Drive, are undeveloped. In 1999, this property was rezoned from SF-1 to SF-2 (Tract 1) and SF-1 to LR-CO (Tract 2) through zoning case C14-98-0146. The ordinance requires a solid fence along the eastern property line, limits any building on the site being taller than 20 ft. in height, restricts pedestrian and vehicular access on Blackfoot Trail and prohibits seventeen uses on the site (Please see Ordinance No. 9907722-46: Attachment A). There is also a public restrictive covenant for this property that requires a six foot wooden fence along the eastern property line, limits the hours of operation for a business, prohibits massage parlors, requires that dumpster pickup be accessed from McNeil Road and states that the applicant shall install nine replacement trees on the property (Please see Public

Restrictive Covenant: Attachment B). The applicant is requesting a rezoning of the property from SF-2 and LR-CO to CS-MU to develop a new commercial use on the site.

The staff recommends LR-MU zoning because the site meets the intent of the Neighborhood Commercial District designation. The proposed LR-MU zoning will promote consistency and orderly planning as it will provide a transition in the intensity of uses away from McNeil Drive to the north. Neighborhood Commercial zoning is compatible with the school/day care use to the west and the single family residential uses to the north and east of the site. LR-MU zoning will low intensity commercial, office and civic uses that will provide services for residential development to the north and east of the property under consideration.

The applicant does not agree with the staff's recommendation.

### **ISSUES:**

On May 8, 2017, the staff received a petition from adjacent property owners who are opposed to any zoning classification other than the current LR-CO and SF-2 zoning on the site (Please see Petition Submittal - Attachment C). This GIS staff evaluated the petition and found that it is currently invalid at 12.43%. The excerpt below is from the City of Austin's Land Development Code and explains when the City Council is subject to the three-fourths vote.

#### **Sec. 25-2-284 REQUIREMENT FOR APPROVAL BY THREE-FOURTHS OF COUNCIL.**

- (A) *The affirmative vote of three-fourths of the members of Council is required to approve a proposed rezoning if:*
- (1) *the Land Use Commission recommends denial of an application to rezone property to a planned unit development; or*
  - (2) *the proposed rezoning is protested in writing by the owners of not less than 20 percent of the area of land:*
    - (a) *included in the proposed change; or*
    - (b) *immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.*

### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LR-CO, SF-2	Vacant Commercial Building, Single Family Residence
<i>North</i>	SF-2	Single Family Residences
<i>South</i>	LI	Undeveloped
<i>East</i>	SF-1	Single Family Residences
<i>West</i>	RR	Day Care (Stepping Stone School)

**AREA STUDY:** N/A

**TIA:** Deferred

**WATERSHED:** Rattan Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Heritage Tree Foundation  
 Bike Austin  
 Friends of Austin Neighborhoods  
 Homeless Neighborhood Association  
 Indian Oaks Neighborhood Association  
 Northwest Austin Coalition  
 SELTEXAS  
 Sierra Club, Austin Regional Group  
 TNR BCP-Travis County Natural Resources

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2016-0123 (6914 McNeil Dr.)	I-RR to GR	1/17/17: Approved staff's recommendation of GR-CO zoning, with CO to prohibit with additional conditions to prohibit Automotive Rentals Automotive Repair Services Automotive Sales, Automotive Washing (of any type), Bail Bond Services, Commercial Off-Street Parking, Drop Off Recycling Facility, Exterminating Services, Funeral Services, Pawn Shop Services Research Services, Service Station, with additional conditions to prohibit Hospital Services, Alternative Financial Services, and Drive-In Services uses and to include a public restrictive covenant to require the installation of sidewalks and sidewalk improvements (8-2, J. Kiolbassa, B. Greenberg-No; D. Breithaupt-absent); S. Harris-1 <sup>st</sup> , B. Evans-2 <sup>nd</sup> .	1/26/17 : Approved Zoning and Platting Commission's recommendation of GR-CO zoning, with conditions, on 1 <sup>st</sup> reading on consent (11-0); D. Garza-1 <sup>st</sup> , P. Renteria-2 <sup>nd</sup> .
C14-2015-0136 (6914 McNeil Dr.)	I-RR to GR	<p>11/17/15: Postponed at the applicant's request to December 15, 2015 (10-0); A. Denkler-2<sup>nd</sup>, B. Evans-2<sup>nd</sup>.</p> <p>12/15/16: Postponed at the applicant's request to January 5, 2016 (7-0, D. Breithaupt, Y. Flores, S. Harris-absent); B. Evans-1<sup>st</sup>, S. Lavani-2<sup>nd</sup>.</p> <p>01/05/16: Postponed at the</p>	<p>12/10/15: Postponed to February 11, 2016 at the staff's request (10-0, S. Adler-absent)</p> <p>02/11/16: Postponed indefinitely at the request of the applicant (11-0); L. Pool-1<sup>st</sup>, D. Zimmerman-2<sup>nd</sup>.</p>

		<p>applicant's request to January 19, 2016 (8-0, S. Lavani-absent, J. Goodman-arrived late); T. Webber-1<sup>st</sup>, A. Denkler-2<sup>nd</sup>.</p> <p>01/19/16: Postponed at the applicant's request to February 2, 2016 (10-0); T. Webber-1<sup>st</sup>, S. Lavani-2<sup>nd</sup>.</p> <p>02/02/16: Approved applicant's request for an indefinite postponement (10-0); J. Goodman-1<sup>st</sup>, J. Kiolbassa-2<sup>nd</sup>.</p> <p>Case expired on July 31, 2016 in accordance with LDC Section 25-2-246(A)(2).</p>	
C14-2012-0099 (Myers Zoning Change: 6810 McNeil Drive)	I-SF-2 to CS GR	<p>11/06/12: Approved GR-CO zoning (6-0, G. Rojas-absent); P. Seeger-1<sup>st</sup>, J. Meeker-2<sup>nd</sup>, with the following conditions 1) Limit the development intensity for the site to less than 2,000 vehicle trips per day, 2) Prohibit the following uses as offered by the applicant: Automotive Repair Services, Automotive Washing (of any kind), Bail Bond Services, Commercial Off-Street Parking, Drop-Off Recycling Collection Facility, Exterminating Services, Food Sales, Funeral Services, Hotel/Motel, Indoor Entertainment, Indoor Sports and Recreation, Off-Site Accessory Parking, Outdoor Entertainment, Outdoor Sports and Recreation, Plant Nursery, Theater, Custom Manufacturing, College and University Facilities, Communication Service Facilities, Community Recreation (Private &amp; Public), Counseling Services, Guidance Services, Hospital Services (General), Hospital Services (Limited), Local Utility Services, Private Primary Educational Facilities, Private</p>	<p>11/08/12: Approved GR-CO zoning on consent on 1<sup>st</sup> reading (6-0, S. Cole-off dais); L. Morrison-1<sup>st</sup>, M. Martinez-2<sup>nd</sup>.</p> <p>12/13/12: Approved GR-CO zoning on consent on 2<sup>nd</sup>/3<sup>rd</sup> readings (7-0), L. Morrison-1<sup>st</sup>, B. Spelman-2<sup>nd</sup>.</p>

		<p>Secondary Educational Facilities, Public Primary Educational Facilities, Residential Treatment, Safety Services; 3) Add Automotive Sales and Service Station as prohibited uses.</p> <p>4) Prohibit/restrict hours of operation between 12:00 a.m. and 6:00 a.m.</p>	
C14-2008-0098 (12205 Pecan Street)	SF-3 to LI	7/01/08: Approved staff's rec. of LI-CO zoning, with added condition to prohibit Adult Oriented Businesses, by consent (6-0, J. Martinez, K. Jackson-absent) T. Rabago-1 <sup>st</sup> , J. Shieh-2 <sup>nd</sup> .	8/07/08: Approved LI-CO district zoning, with the following conditions: 2,000 vtpdl, prohibit Adult Oriented Businesses and 35-feet of right-of-way should be dedicated from the centerline of Pecan Street through a street deed, by consent (7-0); B. McCracken-1 <sup>st</sup> , S. Cole-2 <sup>nd</sup> .
C14-2008-0095 (Jekel Rezoning: 12214 Jekel Circle)	SF-3 to LI	7/01/08: Approved staff's recommendation of LI-CO zoning, with added condition to prohibit Adult Oriented Businesses, by consent (6-0, J. Martinez, K. Jackson-absent) T. Rabago-1 <sup>st</sup> , J. Shieh-2 <sup>nd</sup> .	8/07/08: Approved LI-CO district zoning, with the following conditions: 2,000 vtpdl, prohibit Adult Oriented Businesses and 35-feet of right-of-way should be dedicated from the centerline of Jekel Circle through a street deed, by consent (7-0); B. McCracken-1 <sup>st</sup> , S. Cole-2 <sup>nd</sup> .
C14-2008-0069 (IABA Phase-I: 12460 Los Indios Trail)	I-RR to MF-3	6/17/08: Approved SF-6-CO district zoning with conditions of: Restricting to no duplexes, multi-family, town homes or condominiums; Maximum of 30 units; 25' undisturbed vegetative setback and a 50' building setback from the northern property line; 300 vehicle trips per day; Commissioner Keith Jackson's motion, Commissioner Joseph Martinez second the motion on a vote of 8-0; with 1 vacancy on this commission.	<p>7/24/08: Approved the ZAP Commission's rec. of SF-6-CO zoning, with restrictions as follows: no attached single family dwellings and 35' height limitation with exceptions allowed under the Code up to 40'. The parking will be agreed upon by involved parties. (7-0); Council Member Cole-1<sup>st</sup>, Council Member Martinez-2<sup>nd</sup>; 1<sup>st</sup> reading</p> <p>7/23/09: Approved SF-6-CO zoning on consent on 2<sup>nd</sup>/3<sup>rd</sup> readings (7-0); Morrison-1<sup>st</sup>, Martinez-2<sup>nd</sup>.</p>
C14-03-0107 (Los Indios Lift Station: 12507 Oro Valley Trail)	SF-4A to P	8/26/03: Approved staff's recommendation of 'P' zoning by consent (8-0, K. Jackson-absent); J. Martinez-1 <sup>st</sup> , J. Gohil-2 <sup>nd</sup> .	9/25/03: Granted 'P' (7-0); all 3 readings

C14-03-0074 (Gateway Community Church: 7014 McNeil Drive)	SF-6-CO to GO	6/3/03: Approved GO-CO zoning, with the following conditions: 1) Limit the development intensity on the site to less than 2,000 vehicle trips per day. 2) Allow GO, General Office district, zoning height (60 feet) and impervious cover (80%) standards. Limit all other site development regulations to LO, Limited Office district, zoning standards. 3) Permit LO district uses (prohibit the following GO district uses): Business or Trade School, Business Support Services, College and University Facilities, Congregate Living, Hospital Services (General), Hospital Services (Limited), Private Secondary Education Facilities, Off-Site Accessory Parking, Personal Services, Restaurant (Limited); 4) Provide a 25-foot setback (buffer zone) from the North property line for the area that is zoned SF-1. 5) Provide a 25-foot setback from the East property line for the area that is zoned SF-1 and the lot zoned SF-2.	7/17/03: Granted GO-CO; prohibiting vehicle access to Lobelia Dr. (7-0); all 3 readings
C14-03-0059 (McNeil Deal: 6917 McNeil Drive)	SF-3 to CS	5/6/03: Approved staff's rec. of CS-CO zoning with condition to prohibit the following uses: <ul style="list-style-type: none"> <li>• Drop-off Recycling Collection Facility</li> <li>• Scrap and Salvage</li> <li>• Convenience Storage</li> <li>• Pawnshop Services</li> </ul> (8-0, K. Jackson-absent)	6/5/03: Approved CS-CO (7-0); all 3 readings
C14-00-2218 (6514 McNeil Drive)	I-RR to GO	2/13/01: Approved staff rec. of GO-CO by consent (9-0)	3/22/01: Approved GO-CO zoning, with the following conditions: 660 vehicle trip limit and 40 foot height limit (7-0); all 3 readings
C14-99-0095	SF-3 to CS	6/29/99: Approved staff's alternate rec. of CS-CO (8-0)	7/29/99: Approved PC rec. of CS-CO (6-0); all 3 readings

**RELATED CASES:** C14-98-0146 (Previous Zoning Case)

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
McNeil Drive	100 ft	60 ft	MAD 4	No	No	No
Blackfoot Trail	60 ft	40 ft	Neighborhood Collector	Yes – Eastern Side Only	No	No

**CITY COUNCIL DATE:** August 3, 2017**ACTION:** Postponed to August 31, 2017 at the staff's request by consent (11-0); D. Garza-1<sup>st</sup>, G. Casar-2<sup>nd</sup>.

August 31, 2017

**ACTION:****ORDINANCE READINGS:** 1<sup>st</sup>2<sup>nd</sup>3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Sherri Sirwaitis**PHONE:** 512-974-3057,  
[sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov)





**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 the Planning and Zoning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.**



**Created: 4/19/2017**











## STAFF RECOMMENDATION

The staff's recommendation is to grant LR-MU, Neighborhood Commercial-Mixed Use Combining District, zoning.

In addition, if the requested zoning is granted, then 57 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive to accommodate the required ROW for a Major Arterial Divided 4-lane roadway at 114 feet.

## BASIS FOR RECOMMENDATION

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*

Neighborhood commercial (LR) district is the designation for a commercial use that provides business service and office facilities for the residents of a neighborhood. Site development regulations and performance standards applicable to a LR district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment.

The purpose of a mixed use (MU) combining district is to allow office, retail, commercial, and residential uses to be combined in a single development.

The property in question is located at the entrance to a residential neighborhood at the northwest corner of McNeil Drive and Blackfoot Trail.

- 2. The proposed zoning should promote consistency and orderly planning.*

The proposed LR-MU zoning will promote consistency and orderly planning as it will provide a transition in the intensity of uses (from low intensity commercial to single-family uses) away from McNeil Drive to the north. The proposed zoning is compatible with the surrounding residential uses located to the north and east of the site.

- 3. The proposed zoning should allow for a reasonable use of the property.*

The proposed LR-MU zoning will allow for neighborhood friendly commercial, office and civic uses that will provide services for single-family residential neighborhood to the north of this site.

## EXISTING CONDITIONS

### Site Characteristics

The site under consideration is developed with a vacant commercial/retail structure and a single family residence. The site is surrounded by single family residences to the north and east and a day care use (Stepping Stone) to the west. The tracts of land to the south, across McNeil Drive, are undeveloped.

**Comprehensive Planning**

SF-2 (Tract 1) and LR-CO (Tract 2) to CS-1

This zoning case is located on the northwest corner of McNeil Drive and Blackfoot Trail, on a parcel that is approximately .57 acres in size and contains a one story commercial building, which is vacant. The property is not located within the boundaries of a neighborhood planning area. Surrounding land uses includes a single family house to the north; vacant land to the south; a small house to the east; and a small private school to the west. The proposal is to obtain a commercial zoning designation, which would permit liquor sales and remove the existing CO. The existing CO limits any building on the site being taller than 20 ft. in height; restricts pedestrian and vehicular access on Blackfoot Trail; and prohibits 17 uses on the site, including but not limited to: general retail; restaurants; congregate living; convenience store; and gas stations.

**Connectivity:** Public sidewalks are located intermittently along McNeil Drive. There is a CapMetro transit stop located within three quarters of a mile from this site. The Walkscore for this property 33/100, meaning most errands require a car.

**Imagine Austin**

The site is not located within an Activity Center or along an Activity Corridor. Based on the comparative scale of the site relative to nearby commercial uses located along McNeil Drive, this case falls below the scope of Imagine Austin, which is broad in scope, and consequently the plan is neutral on the proposed rezoning. However, staff highly recommends that the developer install a public sidewalk along McNeil Drive to ensure there is defined pedestrian walkway on this side of the street.

**Environmental**

The site is located over the North Edwards Aquifer Recharge Zone. The site is in the Rattan Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

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.

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

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.

**Impervious Cover**

The maximum impervious cover allowed by the CS-1 zoning district would be 95%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

**Site Plan**

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

**Compatibility Standards**

The site is subject to compatibility standards. Along the north, east, and west property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Additional design regulations will be enforced at the time a site plan is submitted.

**Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

**Transportation**

The Austin Metropolitan Area Transportation Plan calls for a total of 140 feet of right-of-way for McNeil Drive. If the requested zoning is granted, then 70 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive in accordance with the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55).\*

**\*On July 31, 2017, the Transportation reviewer, Katie Wettick, sent the applicant a memo from the Austin Transportation Department which defers any ROW dedication to the time of site plan review (Please see Attachment D).**

If the requested zoning is granted, it is recommended that access to McNeil Drive be prohibited as a condition of zoning because 200 feet of frontage is required for a site to have access to a major arterial.\*

**\*On July 5, 2017 the DSD Transportation review staff sent an e-mail stating that the comment regarding access to McNeil Drive can be deferred to time of site plan (Please see Attachment E).**

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a bike lane is recommended for McNeil Drive.

Per Ordinance No. 20170302-077, off-site transportation improvements and mitigations may be required at the time of site plan application.

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.

A Neighborhood Traffic Analysis is deferred to time of site plan. At time of site plan a neighborhood traffic analysis will be required if triggered per LDC 25-6-114. LDC, Sec. 25-6-114.

- If the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 vehicle trips per day;

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
McNeil Drive	100 ft	60 ft	MAD 4	No	No	No
Blackfoot Trail	60 ft	40 ft	Neighborhood Collector	Yes – Eastern Side Only	No	No

**Water and Wastewater**

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



**ORDINANCE NO. 990722-46**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:**

**TWO TRACTS OF LAND OUT OF THE INDIAN OAKS 2 SUBDIVISION IN WILLIAMSON COUNTY, FROM SINGLE FAMILY RESIDENCE LARGE LOT (SF-1) DISTRICT TO SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT AND NEIGHBORHOOD COMMERCIAL-CONDITIONAL OVERLAY (LR-CO) COMBINING DISTRICT, LOCALLY KNOWN AS 12602 BLACKFOOT TRAIL, IN THE CITY OF AUSTIN, WILLIAMSON COUNTY, TEXAS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The Zoning Map established by Chapter 25-2-191 of the City Code is amended to change the base zoning districts on the property described in File C14-98-0146, as follows:

Tract 1: From Single Family Residence Large Lot (SF-1) district to Single Family Residence (SF-2) district.

All of the north 64 feet of Lot 2, Indian Oaks 2 Subdivision, a subdivision in the City of Austin, Williamson County, Texas, according to the map or plat of record in Cabinet J, Slide 264, of the Official Records of Williamson County, Texas,

Tract 2: From Single Family Residence Large Lot (SF-1) district to Neighborhood Commercial-Conditional Overlay (LR-CO) combining district.

Lot 2, less the north 64 feet of Lot 2, Indian Oaks 2 Subdivision, a subdivision in the City of Austin, Williamson County, Texas, according to the map or plat of record in Cabinet J, Slide 264, of the Official Records of Williamson County, Texas, (the "Property")

locally known as 12602 Blackfoot Trail, in the City of Austin, Williamson County, Texas, and as more particularly identified in the map attached as Exhibit "A".

**PART 2.** The property identified as Tract 2 within the boundaries of the Conditional overlay combining district established by this ordinance is subject to the following conditions:

1. Owner shall provide a solid fence along the property line that begins at the corner of the business structure attached to the house, go east towards Blackfoot Trail, then south towards McNeil Road.
2. Notwithstanding any other provision of the City Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, may be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 1,000 vehicle trips per day.
3. No structure of any kind may be built to a height greater than 20 feet above ground level on the Property.
4. The following uses of the Property are prohibited:

Consumer Convenience Services	Consumer Repair Services
Food Sales —	General Retail Sales (Convenience)
General Retail Sales (General)	Pet Services
Bed and Breakfast (Group 1 and 2)	Restaurant (Drive-In, Fast Food)
Restaurant (Limited)	Service Station —
Congregate Living	Community Recreation (Private)
Community Recreation (Public)	Counseling Services
Guidance Services	Hospital Services —
Residential Treatment	
5. Pedestrian and vehicular traffic associated with a non-residential use on the Property may not access Blackfoot Trail.

Except as specifically restricted under this ordinance, Tract 2 may be developed and used in accordance with the regulations established for the Neighborhood Commercial (LR) base district and other applicable requirements of the City Code.

**PART 3.** The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

**PART 4.** This ordinance takes effect on August 2, 1999.

**PASSED AND APPROVED**

July 22

, 1999

§  
§  
§



Kirk Watson  
Mayor

APPROVED:



Andrew Martin  
City Attorney

ATTEST:



Shirley A. Brown  
City Clerk

199951473 3 PGS

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Zoning Case No. C14-98-0146

**RESTRICTIVE COVENANT**

OWNER(S): ABRAHAM BIRGANI  
ADDRESS: 12602 Blackfoot Trail, Austin, Texas  
CONSIDERATION: Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged  
PROPERTY: Lot 2, less the north 64 feet of Lot 2, Indian Oaks 2 Subdivision, a subdivision in the City of Austin, Williamson County, Texas, according to the map or plat of record in Cabinet J, Slide 264, of the Official Records of Williamson County, Texas,

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions.

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns

- 1 Owner shall provide a six foot high wooden fence that begins at the corner of the business structure attached to the house, go east towards Blackfoot Trail, then south towards McNeil Road
- 2 The hours of operation for any business located on the Property is restricted as follows.  
Monday through Friday from 8.00 a.m. to 8 00 p m  
Saturday from 8:00 a.m. to 12.00 p m.  
Sunday, closed for business
- 3 Massage parlor establishments are prohibited as a use of the Property
- 4 Commercial waste pick-up services shall be from McNeil Road.
- 5 Owner shall provide and install nine replacement trees on the Property
- 6 If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
- 7 If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect

8. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
9. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 22 day of July, 1999.

OWNERS:

ABRAHAM BIRGANI  
ABRAHAM BIRGANI

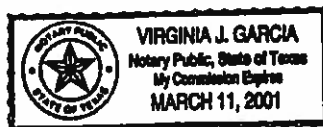
APPROVED AS TO FORM:

William Thomas  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 22<sup>nd</sup> day of July, 1999, by ABRAHAM BIRGANI.



Virginia J. Garcia  
Notary Public, State of Texas  
exp. 3-11-2001

## PETITION

Case Number:

C14-2017-0042

Date: 7/13/2017

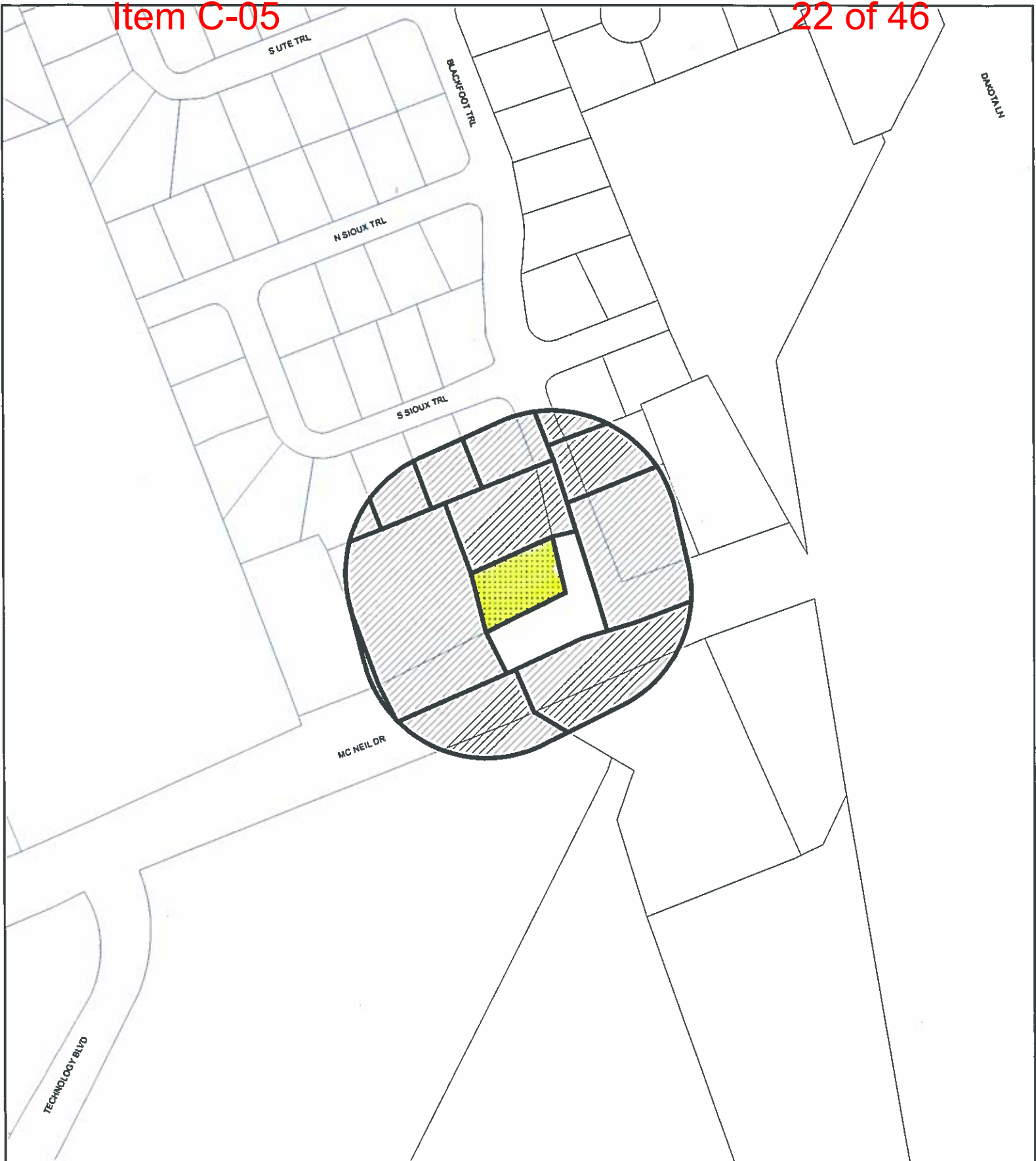
Total Square Footage of Buffer: 219055.5379

Percentage of Square Footage Owned by Petitioners Within Buffer: 12.43%

Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

TCAD ID	Address	Owner	Signature	Petition Area	Percent
R322630	6702 MCNEIL DR    AUSTINTX78729	6702 MCNEIL LTD	no	1131.25	0.00%
R065469	12604 BLACKFOOT TRL    AUSTINTX78729-7703	BIRGANI   ABRAHAM	no	21045.84	0.00%
R065374	7005 S SIOUX TRL    AUSTINTX78729-7742	FEHR   E SCOTT	yes	10462.69	4.78%
R065372	7009 S SIOUX TRL    AUSTINTX78729	GALAVIZ ABEL & MARIA R (LE) & REVOCABLE LIVING TRUST	yes	6075.02	2.77%
R065371	7011 S SIOUX TRL    AUSTINTX78729-7742	JACKSON   JANIE S & ROBERT	no	1597.14	0.00%
R322627	1910 JUSTIN LN    AUSTINTX78757-2492	PAVER FAMILY ENTERPRISES LP	no	55440.53	0.00%
	% PS BUSINESS PARKS INCAttn: Assistant Vice President-A/D701 WESTERN				
R066560	AVEGLENDALECA91201	PS BUSINESS PARKS LP	no	20336.50	0.00%
	ATTN: BRIAN HURLEY% HRPT PROPERTIES TRUST9 GALEN ST STE				
R405452	400WATERTOWNMA02472-4522	RESEARCH PARK PROP TRUST	no	28823.08	0.00%
R065362	12607 BLACKFOOT TRL    AUSTINTX78729-7704	ROBERTS   DAVID ALAN & PAMELA JO	yes	3577.07	1.63%
R065364	12605 BLACKFOOT TRL    AUSTINTX78729	SIEBELINK   DAVID & ROBIN F	no	12362.90	0.00%
R065373	7006 S SIOUX TRL    AUSTINTX78729-7741	TRENHOLM   JOHN D & LINDA	yes	7121.81	3.25%
R065365	12603 BLACKFOOT TRL    AUSTINTX78729-7704	ZARCHI   MEHDI & ELHAM TARKASHVAND	no	33718.09	0.00%
<b>Total</b>				<b>201691.93</b>	<b>12.43%</b>





BUFFER

PROPERTY\_OWNER

SUBJECT\_TRACT

**PETITION**

CASE#: C14-2017-0042

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 200'



PETITION

Date: May 5, 2017

File Number: C14-2017-0042

Address of Re-zoning Request: 6610 McNeil Drive/12602 Blackfoot Trail

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest any change of the Land Development Code which would zone the property to any classification other than LR-CO/SF-2.

We protest the requested zoning change because the change (1) would permit the sale of alcohol from a property adjacent to a daycare and neighborhood residences, (2) is unnecessary to permit reasonable business uses of the property, (3) would not satisfy any public need, (4) would set an undesirable precedent for other properties in the neighborhood surrounding the property, (5) would not allow for a reasonable use of the property, (6) would not promote compatibility with adjacent and nearby uses and would result in detrimental impacts to the neighborhood character, (7) would not promote a transition between adjacent and nearby zoning districts, (8) would not promote the policy of locating retail near the intersections of arterial roadways, and (9) would not promote any clearly identified community goal.

<u>SIGNATURE</u>	<u>PRINTED NAME</u>	<u>ADDRESS</u>
	Rhonda Paver	1910 Justin Lane ✓
	JOHN TRENHOLM	7006 S. SIOUX ✓
	Glen McGuire	12609 Blackfoot Trl
	DAVID A. ROBERTS	12607 BLACK FOOT TR ✓
	PAMELA S. ROBERTS	12607 Blackfoot Trl ✓
	SCOTT FELT	7005 S. SIOUX TR ✓
	CHAD STEPHENS	7010 S SIOUX TR
	Kodi Stephens	7010 S. SIOUX Trail 78729
	LINDA KING	7008 S. SIOUX 78729
	ABEL GALAVIZ	7009 S. SIOUX 78729 ✓
	Maria R. Galaviz	7009 S. SIOUX 78729 ✓

Date:

LINDA TRENHOLM

Contact Name: Jay Clendenin

Phone Number: 903-744-0406

Linda Trenholm

7007 South Sioux 78729



**June 1, 2017**

**AUSTIN, TX:**

1710 Richcreek Rd. 78757  
8419 Bowling Green Dr. 78757  
8121 Shoal Creek Blvd. 78757  
6616 McNeil Dr. 78729  
9914 Woodland Village Dr. 78750  
12301 Hymeadow Dr. 78750  
7700 West Parmer Ln. 78729  
2001 Wells Branch Pkwy. 78728  
1007 E. 40th St. 78751  
9405 Brodie Ln. 78748  
9325 Alice Mae Ln. 78748

**LEANDER, TX:**

225 Block House Dr. 78641

**KYLE, TX:**

4624 Ratcliffe Dr. 78640  
1020 Lightfoot St. 78640

**ROUND ROCK, TX:**

7601 O'Connor Dr. 78681  
2301 N. A.W. Grimes Blvd. 78665  
651 Teravista Pkwy. 78665

**COLLEGE STATION, TX:**

900 University Oaks Blvd. 77840  
205 Rock Prairie Rd. 77845

**ADMINISTRATIVE OFFICE:**

1910 Justin Ln. 78757  
(512) 459-0258  
Fax (512) 467-1824

[www.SteppingStoneSchool.com](http://www.SteppingStoneSchool.com)

**Planning & Zoning Dept.  
c/o Ms. Sherri Sirwaitis – Case Manager  
505 Barton Springs Rd.  
Austin, TX 78704**

**Re: Case Number: 2017-042740 ZC or C14-2017-0042; Zoning/Rezoning**

**Dear Ms. Sirwaitis,**

**After discussions with the property owner, Mr. Birgani, where he indicated he would not seek a zoning classification that allows for the sale of alcohol, we withdraw our formal opposition to the pending application.**

**If you have any questions, please feel free to contact me.**

**Sincerely,**

**Rhonda Paver**



## M E M O R A N D U M

**TO:** Rodney Gonzales, Director, Development Services Department  
**FROM:** Rob Spillar, PE, Director, Austin Transportation Department  
**DATE:** July 26, 2017  
**SUBJECT:** 6610 McNeil Drive (C14-2017-0042) ROW Waiver Request

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The *6610 McNeil Drive zoning case (C14-2017-0042)* concerns the property located along the northwest curb of McNeil Drive and Blackfoot Trail. The existing Right-of-Way (ROW) along McNeil Drive in this section is approximately 100 feet and exists as a MAD4.

In accordance with the City of Austin's *Land Development Code (LDC) §25-6-55, Dedication of Right-of-Way*, the City may determine that all or a portion of Right-of-Way is needed to accommodate the estimated traffic generated by a proposed development based on LDC §25-6-51, *Reservation of Right-of-Way*. The *2025 Austin Metropolitan Area Transportation Plan (AMATP)* is the City's adopted "Transportation Plan" mentioned in LCD §25-6-51.

The *AMATP* designates this section of McNeil Drive to be expanded to a Major Arterial Divided 6-lane roadway (MAD6), with a required ROW of 140 feet. This is a standard cross-section in the *Transportation Criteria Manual (TCM)* for a MAD6. By these standards, the applicant would normally be required to dedicate 70 feet from the centerline of McNeil Drive.

The applicant may be granted an administrative variance from the dedication requirements under the Austin City Code Section 25-6-86;

(A) The director may grant a variance from the dedication requirements of Section 25-6-55 (Dedication of Right-of-Way) if the director determines that the requirements:

- (1) place an undue hardship on the property owner because of special circumstances applicable to the property; or
- (2) render the property unsuitable for an economically feasible use.

Recommendation:

Austin Transportation Department (ATD) staff did not find the dedication requirements placed an undue hardship on the property or render the property unsuitable for an economically feasible use. The Director has determined that 57 feet of ROW dedication is required from the existing centerline of McNeil Drive to accommodate the required ROW for a MAD 4 at 114 feet, however the Director has determined that Right of Way dedication is deferred site plan.

CC: Annick Beaudet, Cole Kitten, Danielle Morin, Andrew Linseisen, Sangeeta Jain, Katie Wettick

**Sirwaitis, Sherri**

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**Subject:** FW: Requesting official city staff meeting for rezoning Case number C14-2017-0042

**From:** Wettick, Katie

**Sent:** Wednesday, July 05, 2017 9:07 AM

**To:** Sirwaitis, Sherri; Shaw Hamilton; cyrus\_birgani

**Cc:** Jain, Sangeeta

**Subject:** RE: Requesting official city staff meeting for rezoning Case number C14-2017-0042

Good Morning Shaw,

TR2, regarding access to McNeil Drive can be deferred to time of site plan. I will edit my comments to reflect that, just keep in mind, that should this site come in for development with a site plan, there is not sufficient frontage for a driveway to be located on McNeil.

Additionally, as I have explained previously, the ROW dedication requirement is determined by the Austin Transportation Department. I have forwarded them your waiver request and I will be in touch as soon as I hear back.

Please let me know if you have additional questions.

Best,

**Katie Wettick**

*Planner III, Transportation Review*

City of Austin Development Services Department

One Texas Center, 4th Floor

505 Barton Springs Road

Office: 512-974-3529



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**From:** Sirwaitis, Sherri

**Sent:** Monday, July 03, 2017 9:17 AM

**To:** Shaw Hamilton; [cyrus\\_birgani@](mailto:cyrus_birgani@)

**Cc:** Wettick, Katie; Jain, Sangeeta

**Subject:** RE: Requesting official city staff meeting for rezoning Case number C14-2017-0042

Hi Shaw,

If you and your client have issues with the prohibition of access to McNeil Drive or with the dedication of right-of-way for McNeil Drive, then you will need to discuss this with the Transportation reviewer. These conditions came from the Transportation review division in the Development Services Department. I am not at liberty to change them in the staff's recommendation. As we discussed before, you may meet with Katie Wettick or Sangeeta Jain to see if these conditions can possibly be deferred.

Transportation Planning - Katie Wettick - 512-974-3529

- TR1. The Austin Metropolitan Area Transportation Plan calls for a total of 140 feet of right-of-way for McNeil Drive. If the requested zoning is granted, then 70 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive in accordance with the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55).
- TR2. If the requested zoning is granted, it is recommended that access to McNeil Drive be prohibited as a condition of zoning because 200 ft of frontage is required for a site to have access to a major arterial.
- TR3. According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a bike lane is recommended for McNeil Drive.
- TR4. Per Ordinance No. 20170302-077, off-site transportation improvements and mitigations may be required at the time of site plan application.
- TR5. 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.
- TR6. A Neighborhood Traffic Analysis is deferred to time of site plan. At time of site plan a neighborhood traffic analysis will be required if triggered per LDC 25-6-114. LDC, Sec. 25-6-114.
- If the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 vehicle trips per day;
- TR7. Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
McNeil Drive	100 ft	60 ft	MAD 4	No	No	No
Blackfoot Trail	60 ft	40 ft	Neighborhood Collector	Yes – Eastern Side Only	No	No

Thank you,

**Sherri Sirwaitis**

City of Austin

Planning & Zoning Department

[sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov)

512-974-3057(office)

---

**From:** Cyrus Birgani []

**Sent:** Saturday, July 01, 2017 1:51 PM

**To:** Sirwaitis, Sherri

**Cc:** Cyrus Birgani; Shaw Hamilton

**Subject:** Requesting official city staff meeting for rezoning Case number C14-2017-0042

Date: June 29<sup>th</sup>, 2017

To: The Case Manager Sherri Sirwaitis,

Zoning case# C14-2017-0042

Case manager: Sherri Sirwaitis

Phone# (512) 974-3057

From: The Property Owner

Abraham Birgani

Phone# (512) 998-2525

Owner Consultants:

Shaw Hamilton

Phone# (512) 791-0778

For the third time, I would like to set up a meeting with you and city staff prior to your final presentation of the ZAP to the planning commission on July 14<sup>th</sup>, 2017. I do not understand the basis for your zoning recommendation, nor do I understand why LDC, Sections 25-6-51 and 25-6-55 apply to me since I am not submitting a new site plan or subdivision plan. Even if your rezoning recommendation was acceptable to me, it would be worthless with the restriction on access from McNeil and a taking of an additional 20 feet of my property. Because of my confusion, I have consulted with a seasoned attorney who recommended that we meet before July 14<sup>th</sup>, 2017. I do not want to proceed with this process without professional assistance and want to avoid a legal dispute. We have made some progress in this case, and I am hopeful that we can resolve the remaining issues in a constructive manner that best serves the interests of all parties concerned. I look forward to your prompt response so we can schedule a meeting.

Sincerely,

Abraham Birgani

512-998-2525

Sirwaitis, Sherri

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**Subject:** FW: Case number C14-2017-0042 for Abraham Birgani rezoning property  
**Attachments:** Abraham Birgani property rezoning Case Number C14-2017-0042 .docx

**From:** Cyrus Birgani []  
**Sent:** Wednesday, May 24, 2017 2:30 AM  
**To:** Sirwaitis, Sherri  
**Cc:** Cyrus Birgani; Shaw Hamilton  
**Subject:** Case number C14-2017-0042 for Abraham Birgani rezoning property

Dear Sherri,

Mr. Shaw Hamilton my consultant has forward your email to me. unfortunately I read that you and staff recommending LR-MU-CO for both lots. For your information this is one lot not two lots which unfairly divided into two worthless tracts during last rezoning about 19 years ago. I CAN NOT accept any zoning less than CS-MU due to fact that I need to open my business at my property. I hope you take time and review them carefully with other staff member and understand my situation and treat me like other properties owner around me which they have rezoned their property base on their businesses needs. I will be there to bring you a hard copy of the attached file and discuss it more with you.

Sincerely,

Abraham Birgani



To: The Case Manager Sherri Sirwaitis, City of Austin staff and planning commission

Zoning case# C14-2017-0042  
Case manager: Sherri Sirwaitis  
Phone# (512) 974-3057

From: The Property Owner  
Abraham Birgani  
Phone# (512) 998-2525

Owner Consultants:  
Shaw Hamilton  
Phone# (512) 791-0778

Subject: Rezoning of lot2 of Indian oaks 2 subdivision from LR-CO/SF2 to CS-MU

The Lot2 of Indian Oakes 2 Subdivision has two addresses:

1. Address from McNeil Drive side: 6610 McNeil Dr. Austin TX. 78729
2. Address from Blackfoot Trail side: 12602 Blackfoot Trail Austin TX. 78729

Please see following very important information about the property (lot2):

- 1 Indian Oakes 2 Subdivision is in Williamson County Texas
- 2 Indian Oakes 2 Subdivision is comprised of 4 properties (or four lots):  
Lots 1, 2, 3 & 4. Please see [Page 8 for this legal document](#)
  - a. For your convenience, I highlighted the lot 1, 2, 3 and 4 of Indian Oaks Subdivision on the notice of Case # C14-2017-0042 for lot2.  
[Please Page 12](#)
- 3 **Since 1985, all four lots( Lots 1, 2, 3 & 4) of Indian Oakes 2 Subdivision are no longer restricted to be used for residential purposes only and may be used for any lawful purpose. There is not any deed restriction on any of the four lots of Indian Oakes 2 Subdivision. Please see page [Pages 9 and page 10 for this legal document](#)**

- 4 Over 27 years ago on December of 1989, I had purchased Lot2 for developing it for commercial use. Prior to purchasing the property from the previous owners, Mr. Richard A. Bouton and Mrs. Diane C. Bouton, I required them to correct the error on the property (lot2)'s building line to allow me with enough space for a commercial building and parking lot. Please see [Page 11 for this legal document](#)
- 5 1990 - I received a site plan exemption from the City of Austin because my property (lot2) was in Williamson County. I also received electrical and plumbing permits from the City of Austin as well.
- 6 1991 - I hired a contractor and started construction of a 25 feet by 60 feet commercial building on the lot2 for commercial use.
- 7 1991 to 1994 - The hired contractor abandoned the commercial building project before completion. Unfortunately, this caused major delay in completing the project. I was forced to take the contractor to court for my losses, which I won, but the contractor filed bankruptcy before I could collect on the ruling. However, I managed to complete the building project by myself.
- 8 1995 to 1996 - I met with Mr. Carl McClendon, Mr. Shaw Hamilton from City of Austin and Mr. Joe England from Williamson County to obtain a permit for constructing a commercial parking lot for my completed commercial building on lot2.
- 9 1997 (during first quarter) - Sales tax permit issued, merchandise (Persian rugs/carpets) received and beauty salon license issued.
- 10 1996 to early 1997 - Searched and hired IT Gonzales Civil Engineer to draw site plan for commercial parking lot and water quality filtration/retention system.
- 11 July 1997 - Permit for waste water line approved and installed on the property by City of Austin.
- 12 December 1<sup>st</sup>, 1997 - The site plan approved by the Texas Natural Resource Conservation Commission was received.

- 13 December 31<sup>st</sup> 1997 – Approved site plan for parking lot and water filtration/retention system on Lot2 in the Indian Oakes 2 Subdivision, City of Austin.
- 14 December 1997 – Hired a contractor for construction of parking lot and water quality filtration/retention system on my property (lot2) per the approved site plan of City of Austin.
- 15 December 31<sup>st</sup> 1997 - City of Austin annexed Indian Oakes 2 Subdivision and other properties in nearby Indian Oakes Subdivision.  
**\*\*Please note, these are two different subdivisions.\*\***
- 16 Prior to annexation the neighborhood did not have the rights to stop my commercial development. It appears to me after annexation the City of Austin took my rights away to develop my property as I see fit and gave it to the neighborhood.
- 17 Although my commercial building project was 100% completed a few years prior to annexation, on March 20th, 1998 while I was more than 40% completed with the parking lot and the water filtration/retention system, the project was stopped due to neighborhood complaints by City of Austin code enforcer, Paul Tomasovic.
- 18 Unfortunately, in the following weeks of stopping my project by the neighbors and code enforcer Paul Tomasovic from the City of Austin, the city revoked all my approved permits and site plans forcing me to rezone my property.
- 19 In 1998, I forced to submit an application for GR land development code for all of Lot 2. During the rezoning process, David Sullivan from the zoning planning commission divided my property into two tracts (tract 1 and tract 2) against my wishes, which made my property worthless. Mayor of Austin Kirk Watson, sided with the neighborhood and my GR land development codes were denied and I was instead given a SF2 for tract 1 and the highly restricted LR-CO for tract 2 with very few options. Additional restrictions including building height and hours of operation were also imposed.
- 20 The outcome of these heavy restrictions made my property worthless, causing great monetary loss and emotional stress rendering my property

useless to me and my purpose for owning and purchasing this property during the last 27 years.

- 21 During the past 27 years, I was able to lease the property for a total of six years. From 2002 to 2005 it was leased to Salon for Kids and from 2008 to 2011 it was leased to Thrifty Nifty (sales of second hand household items.) For more than 21 years, the building has been vacant. The money I have made off the property has barely been enough to cover the taxes and repair on the building.
- 22 I am a Mechanical engineer with many years of experience in equipment engineering. I would love to use my equipment background and run a business on my property offering those types of services but the restrictions under the LR-CO land development code does not allow me to open anything in my field. This would include repair and services, such as AC, Auto, electronic prototype assembly, equipment testing, equipment repair services and equipment sales all prohibited under the LR-CO code. The CS-MU land development codes would allow me to run my business from my property and there is a property within 200 feet of my property that recently zoned by City of Austin to CS-CO. Therefore, like everyone else, I have to have CS-MU zoning to open my own business.
- 23 Currently in 2017, there are commercial properties within 200 feet of lot 2 in the Indian Oakes 2 subdivision. These properties are zoned with the following land development codes:
  - a. W/LO-CO (Case# C14-2011-0046, DAC International) This is Lot 4 of Indian Oakes 2 subdivision.
  - b. CS-CO (Case# C14-98-0060, Johnson Custom Pools and ADCO Printing Company)
  - c. LI across from the property Fashion Forms factory, Ubox, Glover Logistics and SabRex, Megladon and Research park (Flex corporation, Cisco system, Nokia, FCOA, Flex, HPI, Canon, Liberty mutual RW incorporated, Aurigo, New port and many others) Cisco system, Nokia
  - d. Lot 3 of Indian Oakes 2 subdivision is Stepping Stone private daycare center.

**\*\* As you see, I am asking for CS-MU which is very compatible with the businesses surrounding Lot 2.\*\***

- 24 Within a 1 mile area of the property Lot 2 along McNeil Rd. there are more than 50 established businesses, such as:
- a. Auto-related businesses > BMW major car dealer/part/service, Lamb Auto, Advanced Auto Parts, Car Caliber Collision and Foundation auto repair
  - b. Convenience stores with gas station> HEB grocery, Wag-A-Bag, Circle K,
  - c. Major Grocery> HEB Grocery with gas station
  - d. Banks > Wells Fargo
  - e. Restaurants > Sonic, Jack in the Box, Firehouse Subs, Wendys, Cajuan Pizza place and Smokey Mo's BBQ
  - f. Bars > The Tank bar and grill
  - g. Liquor store> DEBS liquor
  - h. Pet Shop > Balconi Animal Hospital, Taurus Academy
  - i. Car Wash > County Car Wash
  - j. Major storage> Extra storage
  - k. Many medical offices
  - l. Fence factory
- 25 Although I am in the Indian Oakes 2 subdivision, since 1997 I have been trying very hard to work with the Indian Oakes subdivision, which is a separate neighborhood, to address their concerns regarding the zoning of my property. What I have presented in this documentation is based in fact and reality. All neighborhood prejudice aside, it is time to put an end to what appears to be a compelling drama. The Indian Oakes Neighborhood Association is deplorable. They have hindered my efforts to rezone my property into something viable for me.
- 26 **Please see the following two examples of prejudice from the Indian Oakes Neighborhood Association toward me:**
- a. The property, Case# C14-98-0060, in Indian Oakes subdivision, the size of this property is also twice the size of mine. This undivided

property, which has been rezoned with CS-CO, is fully supported by the same neighborhood association that has opposed the rezoning of my property. What is the logical reasoning behind this prejudice and opposition? Please see [Page 13](#)

- b. Lot 4 of Indian Oakes 2 subdivision, Case# C14-2011-0046, the size of this property is almost twice the size of mine. This undivided property, which has been rezoned with W/LO-CO, is fully supported by the same neighborhood association that has opposed the rezoning of my property. What is the logical reasoning behind this prejudice and opposition? Please see [Page 14](#)

27 In April 2017, I have submitted an application for rezoning of my property (Lot 2), Case# C14-2017-0042, from LR-CO & SF2 to CS1-MU. I am asking the present City of Austin staff, planning commission, and city council members to treat me fairly like the commercial property owners around me, which you have rezoned recently and in past. Please correct the previous unfair zoning of my property and remove all other restrictions including limited height of building, hours of business operations and reinstate my original right to my property, which I could use it for any viable and lawful business purposes.

28 On May 4th, 2017, I met with the neighborhood to discuss my previous intent to rezone my property to CS1-MU. One of the allowed business options under CS-1 zoning is alcohol sales, which was their primary concern and focus of discussion. I stated to the neighborhood association during that meeting that I would reconsider CS1-MU zoning and would accept CS zoning instead, which does not allow alcohol sales. The CS-MU zoning code change has already been submitted to the City of Austin case manager, and is now in the process of informing everyone about our agreement to this change.

29 Please I have additional information, pictures and documents for support in rezoning of Lot 2 in Indian Oakes 2 subdivision to CS-MU.

30

31 Please use this following link for a satellite of the businesses around Lot 2 of Indian Oakes 2 subdivision along McNeil Dr. Please copy/past the following link to your google search see for yourself.



<https://www.google.com/maps/place/6610+McNeil+Dr,+Austin,+TX+78729/@30.4389222,-97.7559712,96m/data=!3m1!1e3!4m5!3m4!1s0x8644cd1c4fd10981:0x8deecfea8fcdc391!8m2!3d30.4389376!4d-97.7559621>

Sincerely,  
Abraham Birgani,  
12602 Blackfoot Trail Austin Texas 78729  
Phone# 512-998-2525



## Legal Document 1, September 19<sup>th</sup>, 1977 creation of Indian Oakes 2 Subdivision

INDIAN OAKS 2

See Amended Plat of Lots 2, 3 & 4  
C&B. J. Slide 264

SCALE: 1"=100'

± 0.1 S. 1/2 S. 4 E.  
D = A.S. 547

TRAIL  
N  
MILITARY ROAD  
INDIAN OAKS

INDIAN OAKS 2

STATE OF TEXAS  
COUNTY OF TRAVIS:

Before me, the undersigned authority, on this day personally appeared Patricia M. Casey Homes, Inc., a corporation organized and existing under the laws of the State of Texas, with its home office located in Austin, Texas:

Witness my hand and seal of office, this 9th day of August, A.D. 1977.

Patricia M. Casey Homes, Inc.  
Patricia M. Casey, President

STATE OF TEXAS  
COUNTY OF TRAVIS:

Before me, the undersigned authority, on this day personally appeared Patricia M. Casey Homes, Inc., a corporation organized and existing under the laws of the State of Texas, with its home office located in Austin, Texas:

Witness my hand and seal of office, this 9th day of August, A.D. 1977.

Patricia M. Casey Homes, Inc.  
Patricia M. Casey, President

APPROVED FOR ACCEPTANCE August 9 A.D. 1977

Richard M. Little, Director of Planning

ACCEPTED AND AUTHORIZED FOR RECORD BY THE CITY PLANNING COMMISSION OF AUSTIN, TEXAS, this 9th day of August, A.D. 1977.

Richard M. Little, Director of Planning

FILED: This describing 2.34 acres of land out of the Wm. J. Baker Survey No. 10 in Williamson County, Texas:

BEGINNING at an iron stake at the southeast corner of the Bacon C. Griffin tract described in Vol. 528, page 458, Williamson County Deed Records, also said beginning point is the southwest corner of said Baker Survey No. 10;

THENCE along the south line of said Baker Survey No. 10, 87°52'49" E. 30.00 ft. to iron stake for southeast corner;

THENCE S11°18'10" E. 230.00 ft. to iron stake at the northeast corner of Lot 3 of Block 2, Indian Oaks, plat book 68, page 2, Travis County Plat Records, for corner;

THENCE S70°42'30" E. 189.50 ft. to an iron stake at the southwest corner of Lot 4, Block 8, of said Indian Oaks, for corner;

THENCE S18°27'2" E. 136.00 ft. and S17°0' E. 158.00 ft. to the place of BEGINNING, containing 2.34 acres;

I, James T. Watson, do hereby certify that the above field notes and plat represent the results of an actual survey made on the ground under my supervision according to law, the iron stake(s) were properly placed in accordance with Austin City Code Chapter 23.27 of 1964.

June 28, 1977

This Subdivision has been approved by the Williamson County Health Department for 4 lots which will be served by septic tanks.

Date: June 23, 1977

"In approving this plat by the Commissioners Court of Williamson County, Texas, it is understood that the building of all streets, roads, or other public thoroughfares, or any bridges or culverts necessary to be constructed or placed on such streets, roads, or other public thoroughfares as shown on this plat, or in connection therewith, shall be the responsibility of the owner and/or developer of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the Commissioners Court of Williamson County, Texas, and said Commissioners Court assumes no obligation to build or maintain any of the streets, roads, or other public thoroughfares shown on this plat or of constructing any of the bridges or culverts in connection therewith. It is further understood that upon completion of the aforesaid obligations of the developer and his occupancy of the lots along the roads and streets in the subdivision has been achieved, and all necessary drainage have been installed, no written permission from the County Commissioner, the Commissioners Court assumes full responsibility for maintenance of said streets, roads, and drainage facilities."

THE STATE OF TEXAS  
COUNTY OF WILLIAMSON:

I, C. L. Chance, County Judge of Williamson County, Texas, do hereby certify that this map or plat with its plat number attached hereto, and the survey certificate appearing hereon, has been filed for record in the Public Records of the County Clerk of Williamson County, Texas, and by the said Court duly considered, was on this day approved and said plat is authorized to be registered and recorded in the proper records of the County Clerk of Williamson County, Texas.

Date: June 19, 1977

C. L. Chance, Judge, Williamson County, Texas

STATE OF TEXAS  
COUNTY OF WILLIAMSON:

I, Rich Cervantes, Clerk of the County Court, within and for the County and State aforesaid, do hereby certify that the foregoing instrument of writing, with its certificate of authentication, was filed for record in my office on the 19th day of June, A.D. 1977, at 9:30 o'clock A.M., and duly recorded on the 19th day of June, A.D. 1977, at 9:30 o'clock A.M., in the plat records of said County, in Subdivision Page 101, 314.

Witness My Hand and Seal of the Court of said County, at Office in Georgetown, Texas, the date last written above.

Rich Cervantes, Clerk County Court, Williamson County, Texas

Rich Cervantes  
Clerk

The lots in this subdivision are hereby restricted against other uses, and the same are made to be a septic water system approved by Williamson County Health Dept. or to a public sewer system.

APR 19 1977

C8 3-77-149

VN 1186-361

**ASSIGNMENT OF RESTRICTIONS**  
**18533**

STATE OF TEXAS  
COUNTY OF WILLIAMSON

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, by Deed recorded in Volume 300, Page 490, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", HAROLD FLOYD DAVIS and wife, ALICE DAVIS, and EDGAR DAVIS, as Grantors, did convey to ROSCOE D. HILLEGOM and wife, ANNIE HILLEGOM, as Grantees, three (3) Acres of Land situated in Williamson County, Texas, as are more fully described on Exhibit "A"; and

WHEREAS, MUELAN DAVIS is now deceased and DEBRA RICHENBERT, joined herein by her husband, DONALD L. RICHENBERT, is her only heir; and

WHEREAS, ELAINE DANKER, wife of DALE DANKER, is now deceased; and

WHEREAS, RICHARD BOUTCH and wife, DEANE BOUTCH, CRAIG W. SHIFFERT and wife, BARBARA SHIFFERT, DALE BAKER and FRANK C. HOLCHER, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named HILLEGOM, BOUTCH, BAKER, SHIFFERT and HOLCHER constitute all of the parties with any interest in and to the property described on Exhibit "A"; and

WHEREAS, the Deed attached as Exhibit "A" contains certain restrictions restricting the use of the property for residential purposes only, and the parties hereto now desire to amend said restrictions to permit any lawful use;

NOW THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree that the restrictions imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purposes only and may be used for any lawful purpose.

EXECUTED this 31 day of April, 1983.

ROScoe D. HILLEGOM	ANNIE HILLEGOM
DONALD L. RICHENBERT	DEBRA RICHENBERT
RICHARD BOUTCH	DEANE BOUTCH
CRAIG W. SHIFFERT	BARBARA SHIFFERT
DALE BAKER	FRANK C. HOLCHER, JR.

STATE OF TEXAS  
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on April 27, 1983, by ROSCOE D. HILLEGOM and wife, ANNIE HILLEGOM.

Notary Public, State of Texas  
(Printed or Typed Name of Notary)  
My Commission Expires: 1985

OFFICIAL RECORDS  
WILLIAMSON COUNTY TEXAS

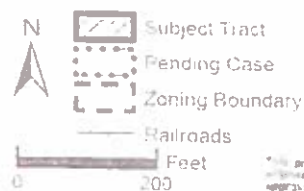
Please see the following page for more information on this legal document and my legal right to use my property

**Please note: the last paragraph in this legal document clearly states that since 29 days of April, 1985, all restrictions on all LOTS including LOTS 1, 2, 3 & 4 of Indian Oaks 2 subdivision have been removed and the property is no longer restricted to be used for residential purposes only and may be used for any lawful purpose.**

[illegible]

NOW THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree that the restrictions imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purposes only and may be used for any lawful purpose.





1" = 200'

### ZONING

Case#: C14-2017-0042

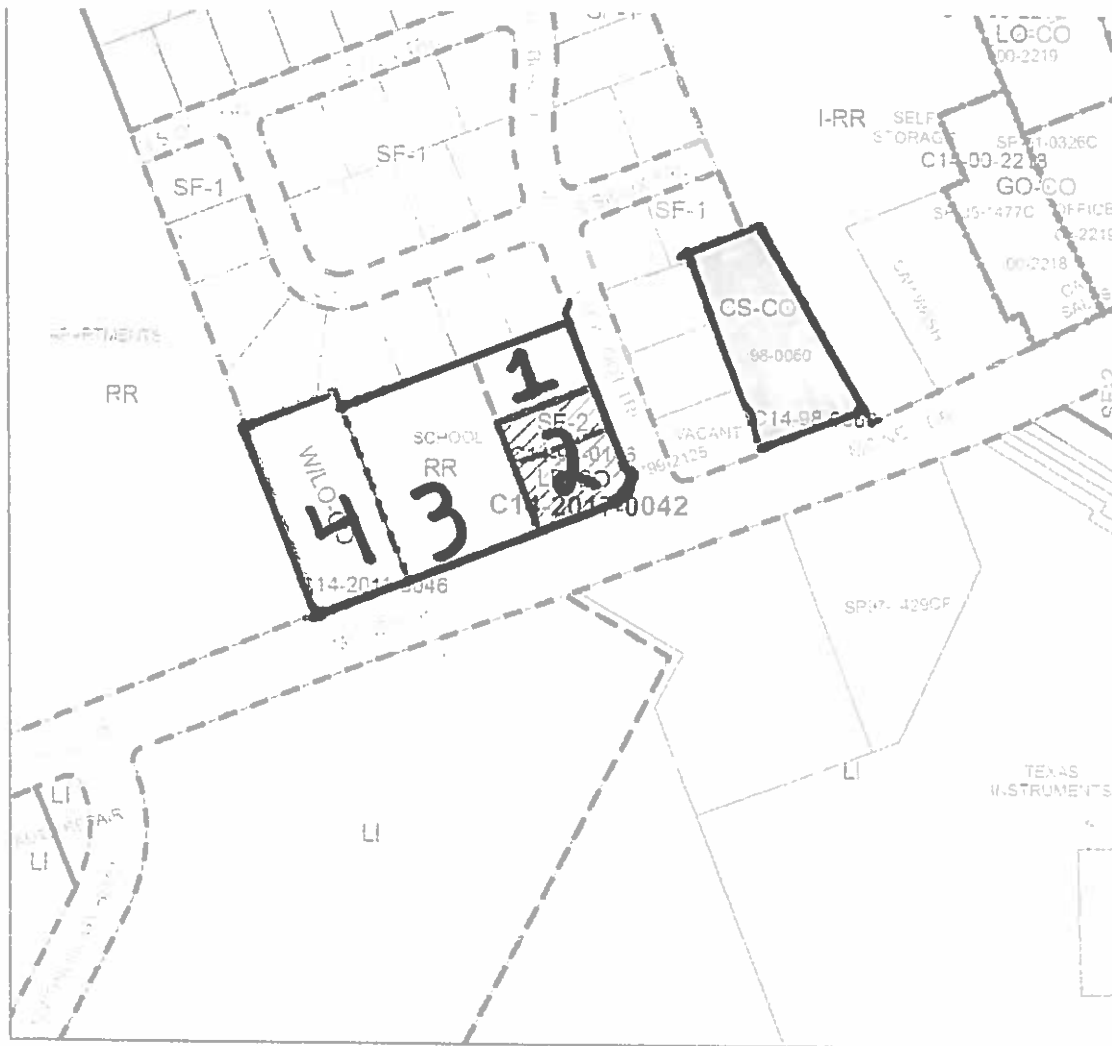
\*This product is for informational purposes and may not have been prepared for or be suitable for legal planning or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Zoning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Created 4/19/2017





### ZONING

Case#: C14-2017-0042



0 200 Feet

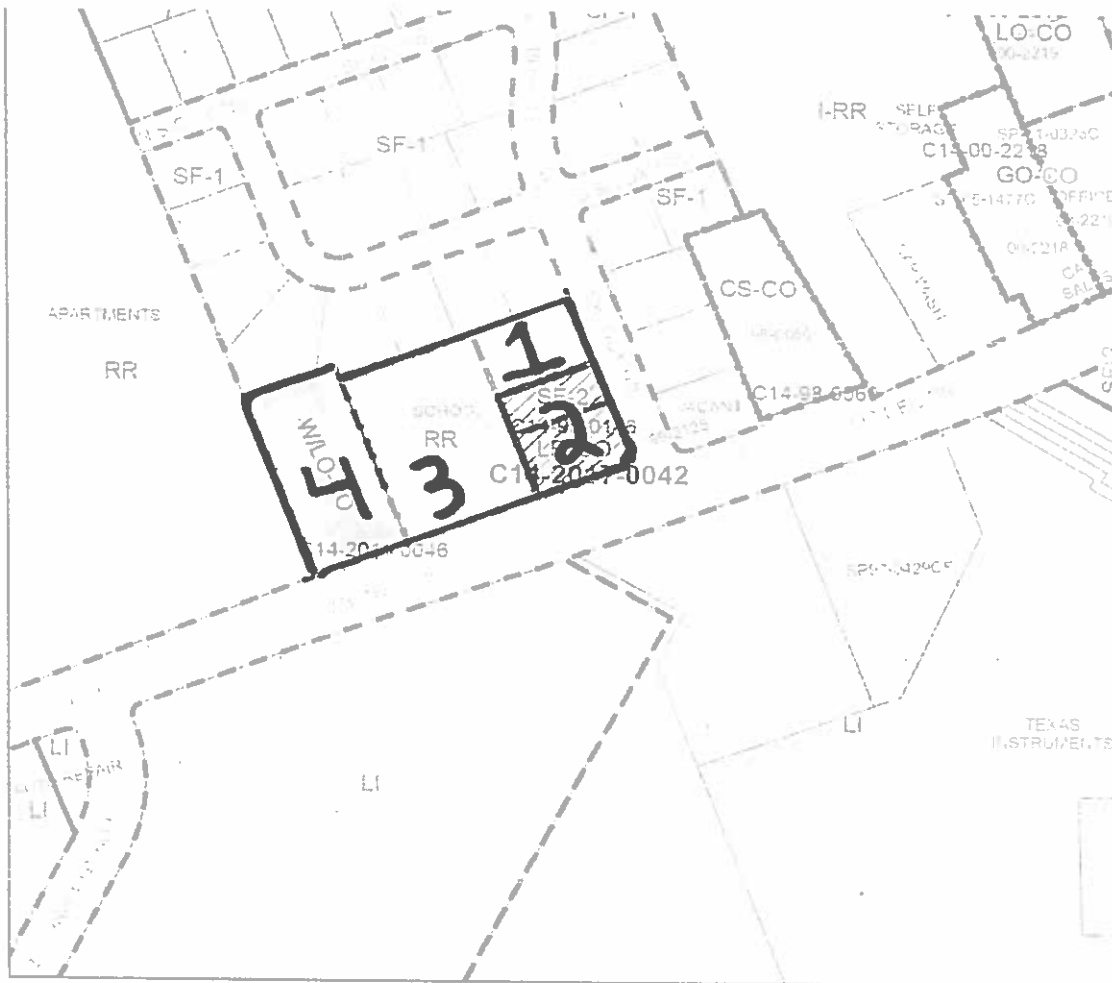
1" = 200'

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Created: 4/19/2017



## ZONING

Case#: C14-2017-0042

 $1'' = 200'$ 

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Created 4/19/2017

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. 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 development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. 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 is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website: [www.austintexas.gov/planning](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2017-0042

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: June 6, 2017, Zoning and Platting Commission  
August 3, 2017, City Council

ABEL GALAVIZ  
Your Name (please print)

7009 S. SIOUX TRAIL

Your address(es) affected by this application

Abel Galaviz 06/01/2017  
Signature Date

Daytime Telephone: 512-335-7082

Comments: REZONING WOULD BE IMPRACTICAL  
AND NOT A GOOD THING TO DO FOR  
OUR PEACEFUL COMMUNITY/NEIGHBOR-  
HOOD. ALL SORTS OF ADDITIONAL  
TRAFFIC WOULD MAKE OUR NEIGHBOR-  
HOOD LESS DESIRABLE TO LIVE  
IN. AS WE UNDERSTAND, THIS INDIVI-  
DUAL WANTS TO OPEN A LIQUOR STORE  
THERE. THE STEAKING STONE SCHOOL IS EXACTLY  
RIGHT NEXT DOOR. NOT GOOD.

If you use this form to comment, it may be returned to:

City of Austin  
Planning & Zoning Department  
Sherri Sirwaitis  
P. O. Box 1088  
Austin, TX 78767-8810

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**Case Number: C14-2017-0042**

**Contact: Sherri Sirwaitis, 512-974-3057**

**Public Hearing: June 6, 2017, Zoning and Platting Commission  
August 3, 2017, City Council**

Trudy Ross

Your Name (please print)

7001 Sioux Trail

Your address(es) affected by this application

Trudy Ross

Signature

☐ I am in favor  
☒ I object

6-2-17

Date

Daytime Telephone:

512 335-7227

Comments:

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Case Number: C14-2017-0042

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: June 6, 2017, Zoning and Platting Commission  
August 3, 2017, City Council

CAROL E. BUTIERREZ

Your Name (please print)

☐ I am in favor  
☒ I object

7004 S. SIOUX TRAIL

Your address(es) affected by this application

Carol E. Butierrez

Signature

5-30-2017

Date

Daytime Telephone: 512-554-6836

Comments: WILL BRING TOO MUCH TRAFFIC  
TO THIS AREA. IT'S A BAD  
INTERSECTION TO BEGIN WITH.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810