

Below see Ms. Rhonda Paver removal of their formal opposition



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 Farmer Ln. 78729
2001 Wells Branch Pkwy. 78728
1007 E. 40th St. 78751
9405 Brodie Ln. 78748
9325 Alice Mae Ln. 78748

LEANDER, TX:
225 Black 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

June 1, 2017

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

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

Dear Ms. Sirwaltis,

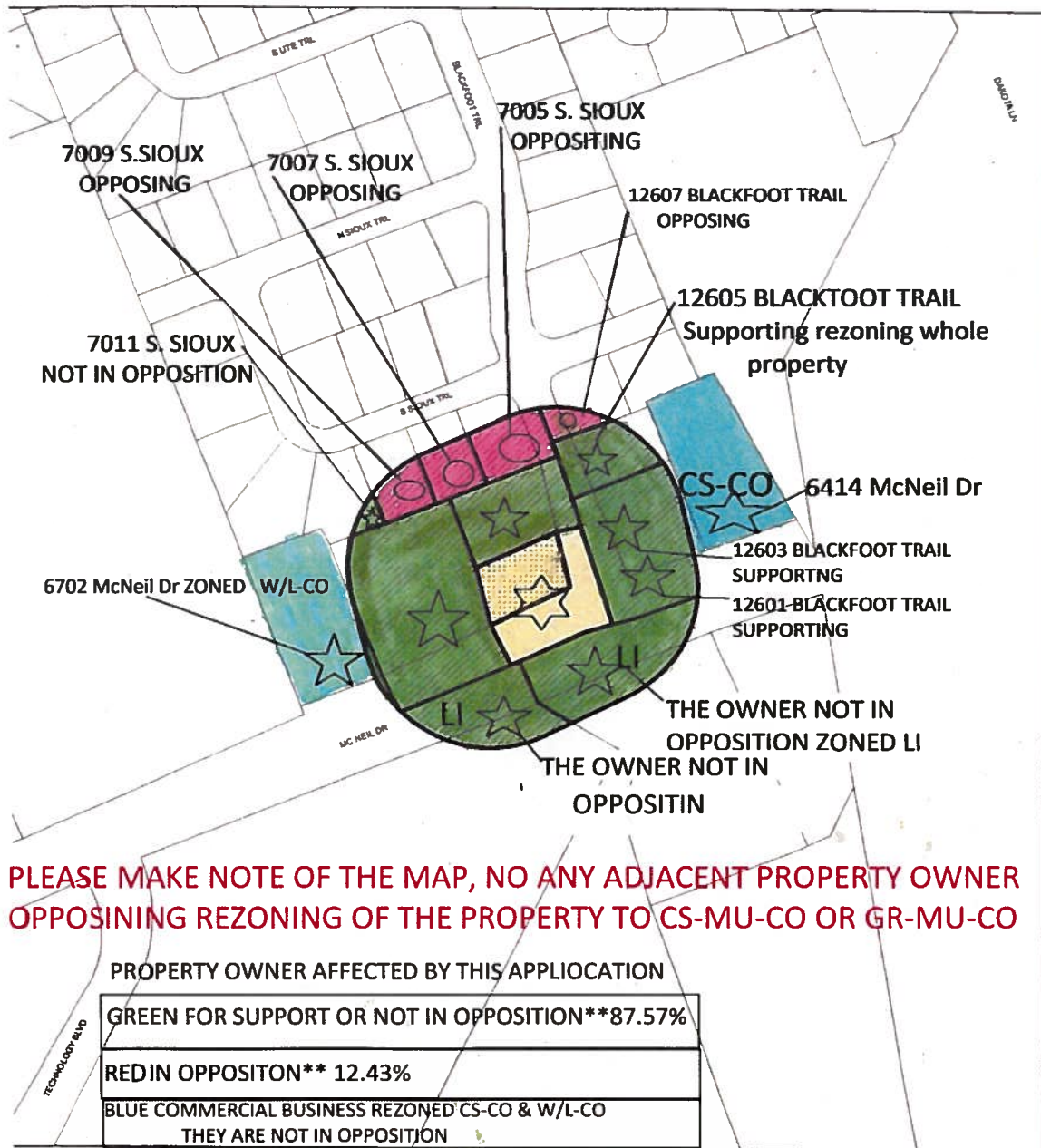
After discussions with the property owner, Mr. Birgani, where he indicated he would not seek a zoning classification that allows for the sale of alcohol, we withdraw our formal opposition to the pending application.

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

Sincerely,


Rhonda Paver

NO Adjacent property owner opposition to Rezoning to this property



" = 200'

- BUFFER
- PROPERTY_OWNER
- SUBJECT_TRACT

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.

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No Valid Petition

Case Number
C14-2017-0042

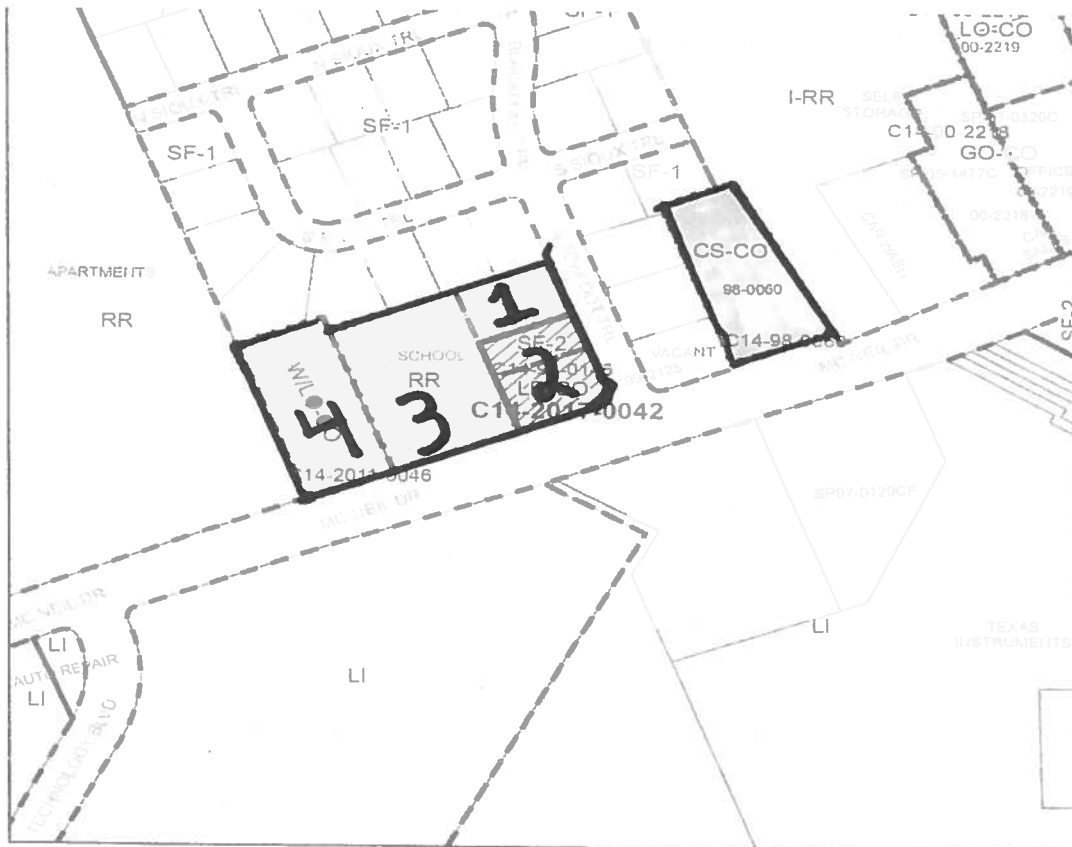
PETITION

Date: 6/5/2017
Total Square Footage of Buffer: 219055.5379
Percentage of Square Footage Covered by Petitioners Within Buffer: 12.43%

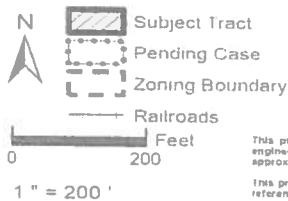
Calculation: The total square footage is calculated by taking the sum of the area of all TCAB Parcels in the total square footage including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200-foot buffer are not used for calculation. 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.

TCAB ID	Address	Owner	Signature	Petition Area	Percent
R0522586	6702 MONROE DR. AUSTINTX0729-7729	6702 MICHEL LTD	no	1131.25	0.52%
R055469	12602 BLACKFOOT TRIL AUSTINTX0729-7703	BIRGAH ABRAHAM	no	21045.84	0.00%
R055374	7005 S SLOUX TRIL AUSTINTX0729-7742	FERRE E SCOTT	yes	10462.59	4.78%
R055372	7009 S SLOUX TRIL AUSTINTX0729-7742	GALAYAZ ASER & MARIA R (L) & REVOCABLE LIVING TRUST	yes	6075.02	2.77%
R055371	7011 S SLOUX TRIL AUSTINTX0729-7742	JACKSON JAMIE S & ROBERT	no	1597.14	0.00%
R0522627	1910 JUSTIN LANE AUSTINTX0729-7452	PAYER FAMILY ENTERPRISES LP	no	55440.53	0.00%
R055590	16 PS BUSINESS PARKS KICKAPU Assistant Vice President-A/0701 WESTERN AVE GLENDALE CA 91201	PS BUSINESS PARKS LP	no	20336.50	0.00%
R054552	ATTN: BRIAN HURLEY HPT PROPERTIES TRUST 9 GALEN ST STE A02 WATERGATE WINDYMEAD 7472-4522	RESEARCH PARK PRCP TRUST	no	28032.08	0.00%
R055362	12607 BLACKFOOT TRIL AUSTINTX0729-7704	ROBERTS DAVID ALAN & PAMELA JO	yes	3577.07	1.63%
R055364	12605 BLACKFOOT TRIL AUSTINTX0729-7704	SERBELFUE DAVID & ROBIN F	no	12362.90	0.00%
R055373	7005 S SLOUX TRIL AUSTINTX0729-7741	TRENNHOLM JOHN D & LINDA	yes	7121.81	3.25%
R055365	12603 BLACKFOOT TRIL AUSTINTX0729-7704	ZARCH MEHDI & ELHAM TARKASHYAND	no	33719.09	0.00%
Total				201691.93	12.43%

Please see below case#C14-98-0060 zoned CS-CO



ZONING
Case#: C14-2017-0042



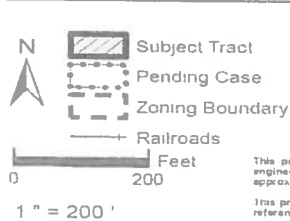
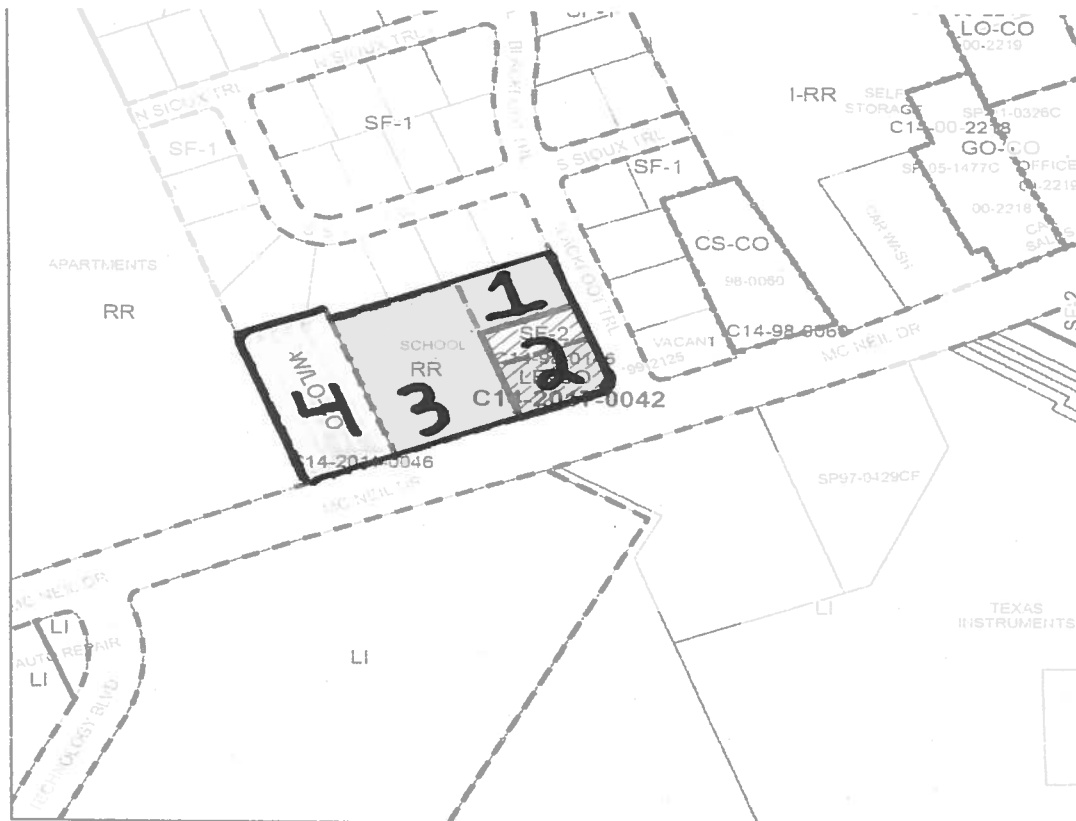
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Created 4/19/2017

Please see Below case# C14-2011-0046 zoned W/LO-CO



ZONING

Case#: C14-2017-0042

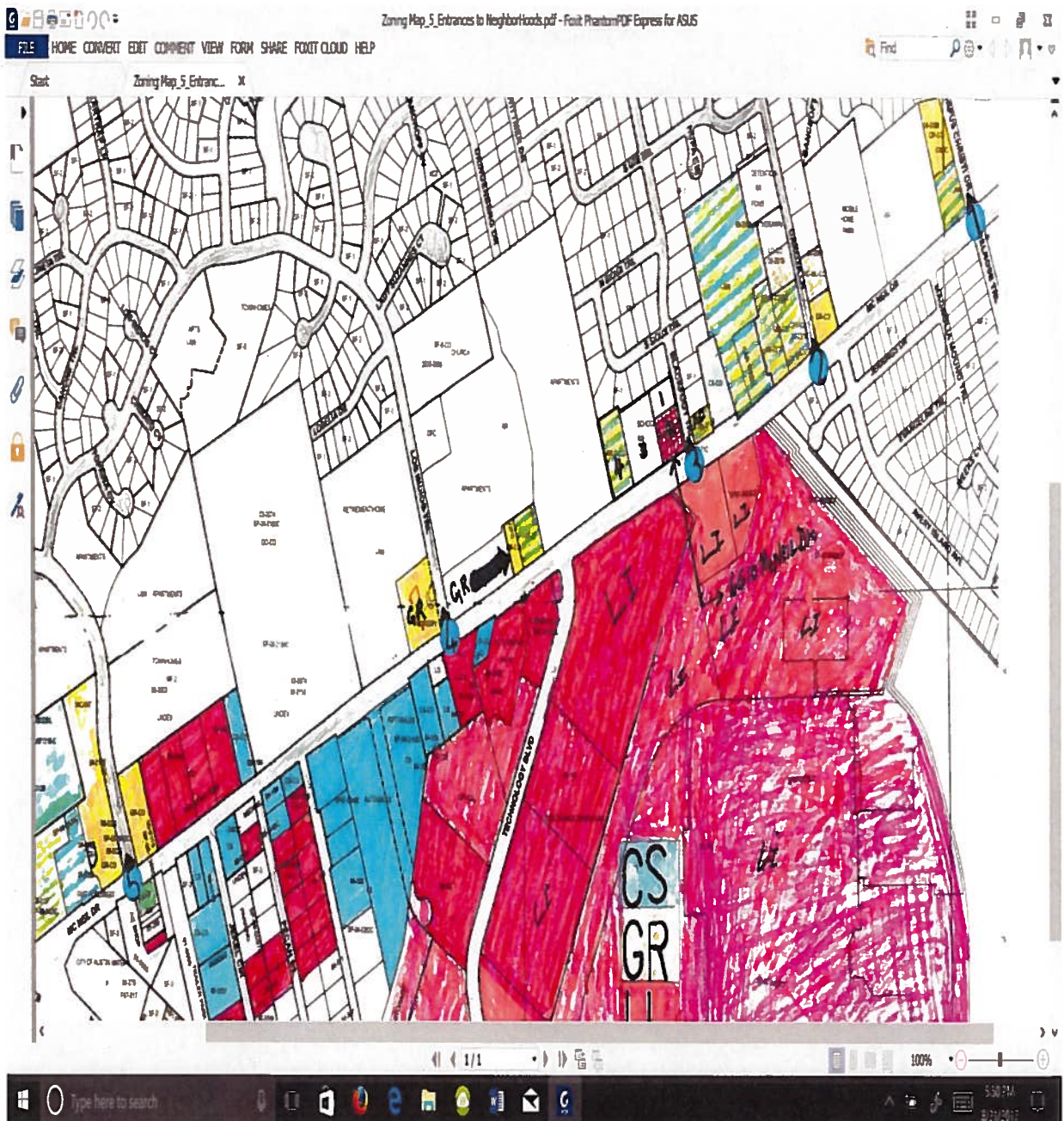
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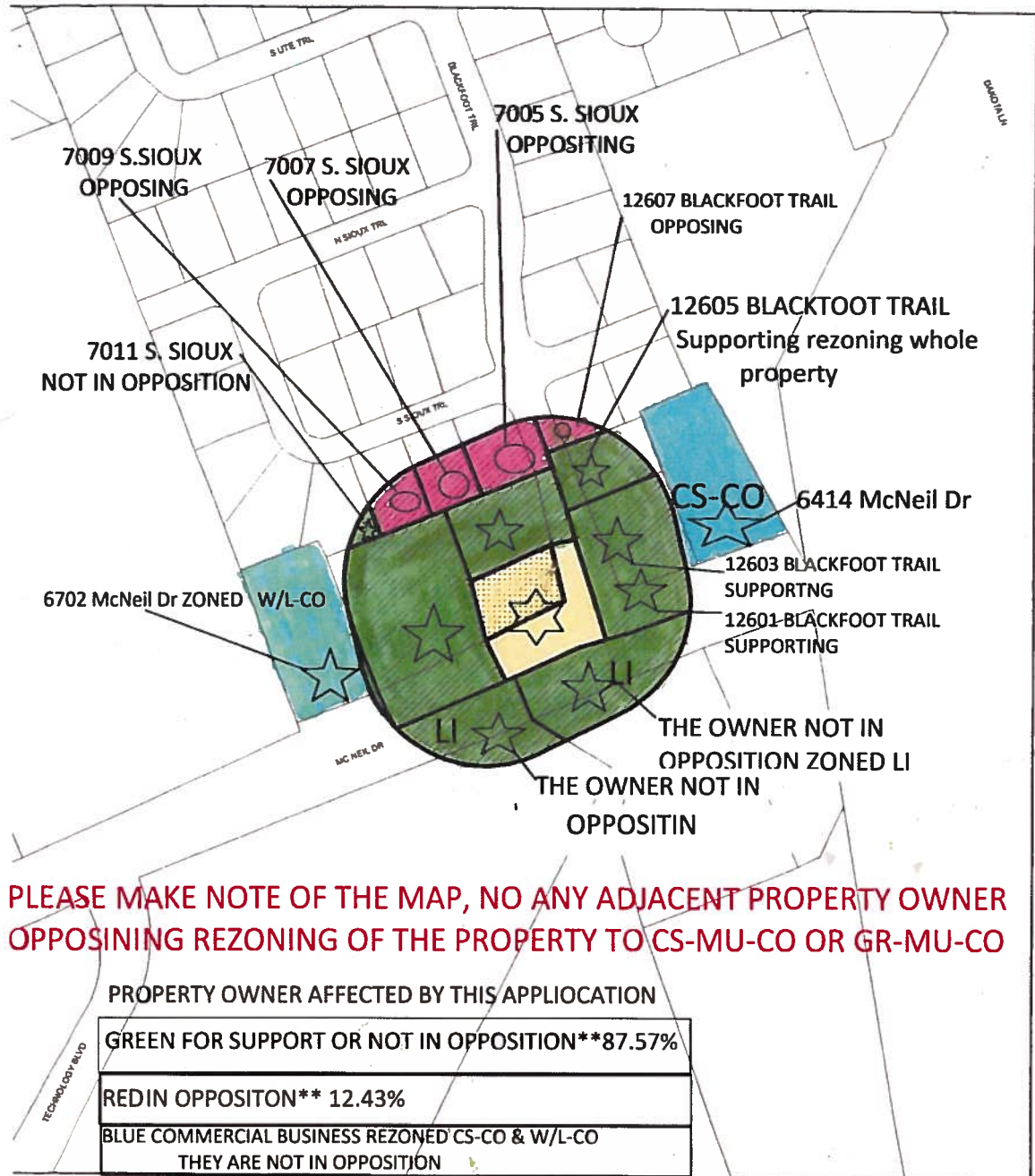


Created 4/19/2017

Zoning Map Of 5 entrances to Neighborhoods From McNeil Dr.



NO ADJACENT PROPERTY OWNER IN OPPOSITION OF ZONING WHOLE LOT-2



PETITION
CASE#: C14-2017-0042

" = 200'

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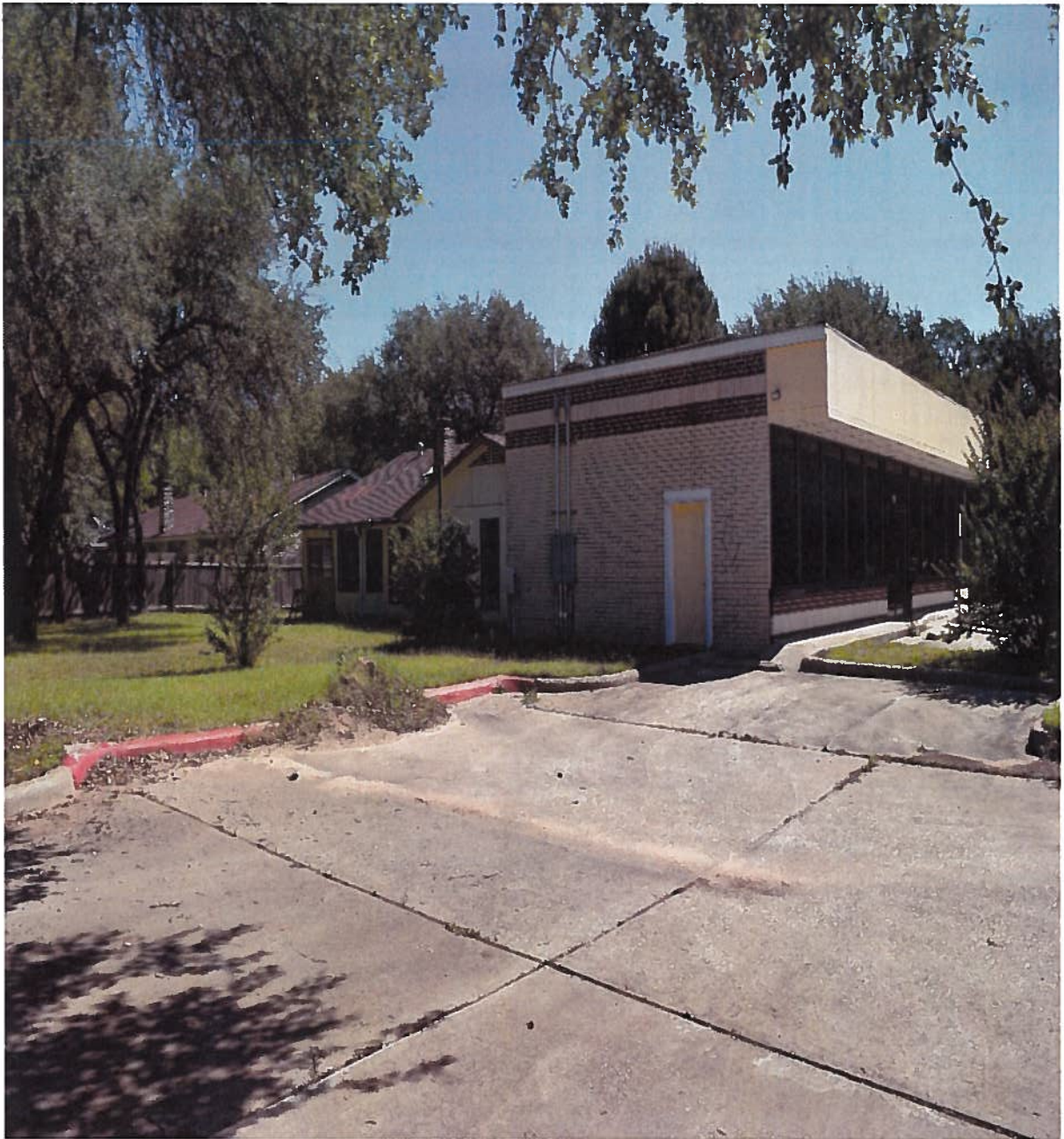










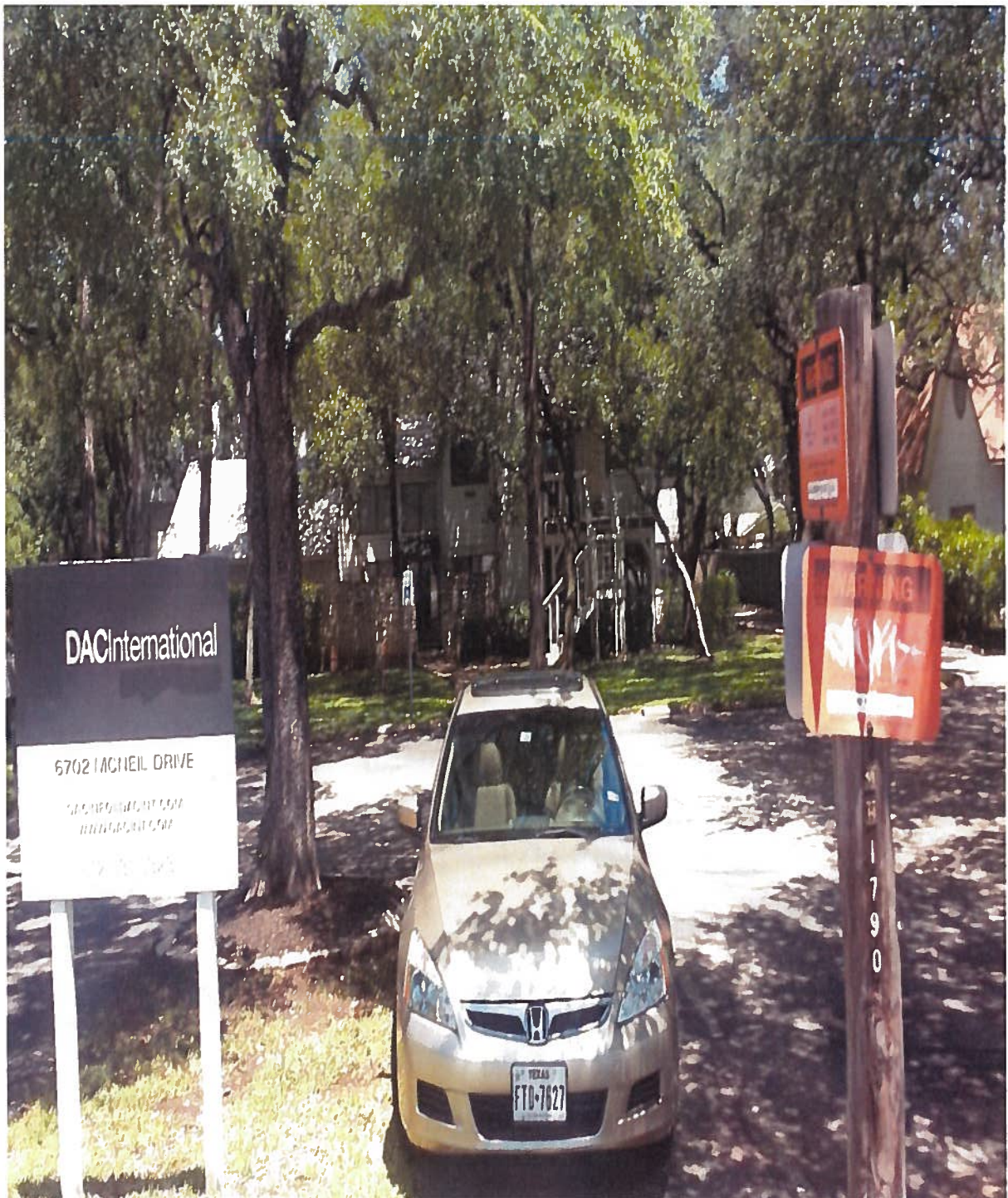


Above picture of my property case # C14-2017-0024























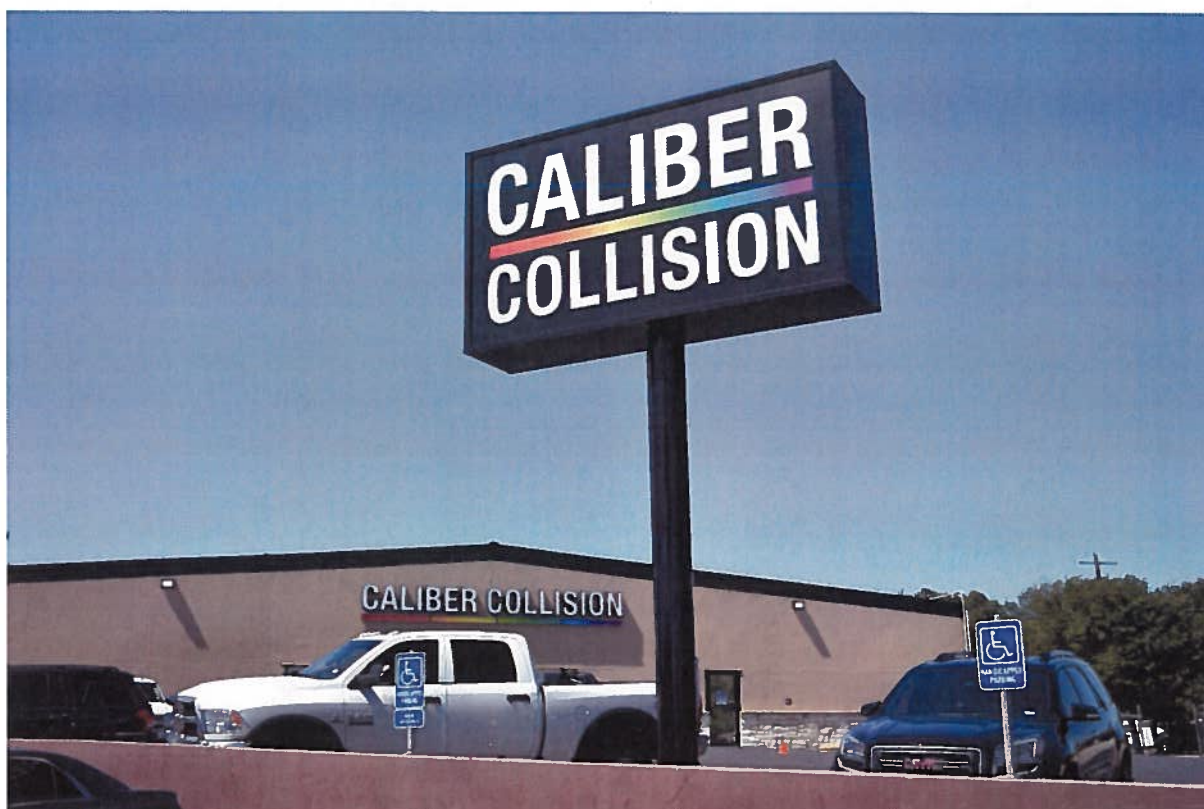




















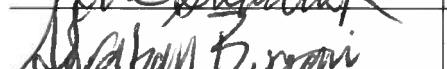
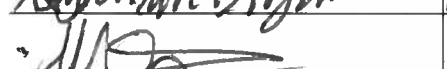



Date: September 15, 2017

Case Number: C14-2017-0042

To: Austin City Council

Address of Rezoning: 6610 McNeil Drive? 12602 Blackfoot Trail

We undersigned property owners adjacent to the referenced property **in favor and supporting** the requested zoning change to CS-MU for all of the property (Lot 2 Indian oaks 2 Subdivision) because: (1) Since 1985, the property is no longer restricted to use for residential purposes only and may be use for any lawful purpose. (2) The property has been purchased and developed since 1989 with no restriction to operate any type lawful businesses until City annexed the property in 1998. (3) The property has been developed with large detention pond which prevent flooding during heavy rain at corner of McNeil Drive and Blackfoot trail which benefit us. (4) There are much larger properties adjacent to our properties which zoned by city of Austin to CS-CO, W/L-CO and LI therefore the CS-MU code is very compatible with those commercial properties around us. (5) Beside Blackfoot Trail entrance to neighborhoods, there are four other entrances from McNeil to Neighborhoods close to us. On the eastside CORPUS CHRISTI DR and DAKOTA LN, on the westside LOS INDIOS TRL and SAN FELIPE Blvd, each one of these entrances has one or more properties that zoned to GR-CO or CS/GR-CO and none them has been divided to smaller tract, there is no justifiable reason this property singles out and treat poorly and over regulated with heavy restriction to become useless. It is time distinguished council members correct unjust, restore his right to his property and provide equal opportunity for the property owner too.

Signature	Print Name	Address
	MEHDI ZARCHI	12603 Blackfoot Trl. 78729
	Elham Tarkashvand	12603 Blackfoot trl. 78729
	DAVID SIEBELINK	12605 BLACKFOOT TR 78729
	Robin Siebelink	12605 BLACKFOOT TR 78729
	Abraham Birgani	12604 Blackfoot trl 78729
	Mana Birgani	12604 Blackfoot Tr 78729
	Lorenzo M Garcia.	7205 NORTH UTE TRAIL 78729.
	MEHDI ZARCHI	6516 McNeil Dr. 78729
	Elham Tarkashvand	6516 mcNeil Dr. 78729

Please see attached copy of legal agreement for following two property
R322630- 6702 McNeil Drive Lot 4 of Indian Oaks 2 subdivision
R322627- 6616 McNeil Drive Lot 3 of Indian Oaks 2 subdivision

Contact Name: Abraham Birgani

Phone Number: 512-998-2525

Page,

STATE OF TEXAS §
COUNTY OF WILLIAMSON §

18833

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, by Deed recorded in Volume 500, Page 496, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", RAYMOND FLOYD DAVIS and wife, ALINE DAVIS, and BEULAH DAVIS, as Grantors, did convey to ROSCOE E. MILLEGAN and wife, ANNIE MILLEGAN, as Grantees, those six (6) tracts of land situated in Williamson County, Texas, as are more fully described on Exhibit "A"; and

WHEREAS, BEULAH DAVIS is now deceased and DIANA EICHSTATDT, joined herein by her husband, DONALD L. EICHSTATDT, is her only heir; and

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

WHEREAS, RICHARD BOUTON and wife, DIANE BOUTON, CRAIG H. SHERPERT and wife, BARBARA SHERPERT, DALE BARNES and FRANK C. WOLCHICK, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named MILLEGANS, BOUTONS, BARNES, SHERPERTS and WOLCHICK 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 27th day of April, 1985.

<u>Roscoe C. Millegan</u> ROSCOE C. MILLEGAN	<u>Annie Millegan</u> ANNIE MILLEGAN
<u>Diana Eichstatdt</u> DIANA EICHSTATDT	<u>Donald L. Eichstatdt</u> DONALD L. EICHSTATDT
<u>Richard Bouton</u> RICHARD BOUTON	<u>Diane Bouton</u> DIANE BOUTON
<u>Craig H. Sherpert</u> CRAIG H. SHERPERT	<u>Barbara J. Sherpert</u> BARBARA J. SHERPERT
<u>Frank C. Wolchick, Jr.</u> FRANK C. WOLCHICK, JR.	<u>Dale Barnes</u> DALE BARNES

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on April 27, 1985, by Roscoe D. Millegan and wife, Annie Millegan.

Christine S. Long
NOTARY PUBLIC, State of Texas

Christine S. Long
(Printed or typed name of Notary)
My Commission Expires: 3-3-87





**Stepping Stone
SCHOOL**

Premier Private Education

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
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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

October 18, 2017

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 and Members of the City Council,

This letter is intended to more formally state our position with regard to the above referenced case number. We have had conversations and at least one meeting with the Applicant. While we are sympathetic to the Applicant's desire to sell alcohol, we simply cannot support that desire. We have a loyalty and duty to the children and families at our neighboring school and we oppose any use that would allow the sale of alcohol in such close proximity to our school.

The Applicant also indicated to us that he is not interested in having a convenience store at that location, so we would encourage a prohibition or condition that would not allow any type of gas station or convenience store.

The Applicant also indicated that the City wants to create a Right of Way that would extend 70 ft. from the middle of McNeil Drive, which would encroach on the Applicant's property. We support the Applicant in his effort to limit that encroachment to whatever extent possible.

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

Sincerely,

Rhonda Paver

Sirwaitis, Sherri

Subject: FW: Zoning Case No. C14-2017-0042

From: Jay Clendenin []

Sent: Wednesday, October 18, 2017 8:21 PM

To: Flannigan, Jimmy; Houston, Ora; Garza, Delia; Renteria, Sabino; Casar, Gregorio; ann.kitchen@austintexas.gov; Pool, Leslie; District 8; Tovo, Kathie; District10

Cc: Sirwaitis, Sherri

Subject: Zoning Case No. C14-2017-0042

Dear Council Members,

My name is Jay Clendenin. I am a member of the Indian Oaks Neighborhood Association. I have appeared before the ZAP Commission regarding the above-referenced case in order to ensure that the interests of our neighborhood are represented. However, I will not be able to attend the Council's October 18 hearing. I would like to provide the following comments for the Council to consider in rendering a decision.

The neighborhood's primary concerns regarding Abraham Birgani's application are:

(1) The requested CS zoning is incompatible in a residential neighborhood. Mr. Birgani's property is located within a residential neighborhood and is surrounded on three sides by residences and a Stepping Stone daycare on the fourth side. Based on Mr. Birgani's statements to the neighborhood and to the ZAP Commission, we believe Mr. Birgani intends to operate a manufacturing business out of the building, which may include computer chip manufacturing. Such a business would not serve the neighborhood and is entirely incompatible in a residential neighborhood.

The ZAP Commission's recommendation of GR zoning with a conditional overlay is preferable to the requested CS zoning, but GR zoning may set an undesirable precedent for other properties in the neighborhood near to Mr. Birgani's (e.g., Mr. Birgani also owns the lot adjacent to the lot at issue in this case). Notably, LR zoning is most consistent with the zoning that is planned for Mr. Birgani's property under Code Next. Moreover, despite Mr. Birgani's assertions to the contrary, the current LR zoning is sufficient to accommodate a sufficiently wide range of businesses. Two tenants previously occupied the commercial portion of the building and are no longer tenants for reasons entirely unrelated to the restrictions placed by the City on the property.

The neighborhood also approves of the current zoning, which permits a business to operate on the McNeil frontage but zones the "back half" of the lot as residential. The zoning application requests that the entire lot to be zoned commercial. Such zoning would intrude into the residential neighborhood and change the character of the entryway into Indian Oaks. Commercial zoning for the portion of the property fronting onto the residential Blackfoot Trail is simply incompatible with the residential neighborhood.

(2) A more intensive zoning than LR would increase traffic flow at the intersection of McNeil and Blackfoot. The intersection does not have a traffic light and is already unsafe due to limited sight-lines. Further, if both tracts of the property are zoned to a commercial category, the neighborhood has no guarantee that a commercial access will not be built on Blackfoot, a residential street. Indeed, the City's transportation office has already indicated that a commercial entrance on McNeil would not be permitted. A commercial entrance on Blackfoot Trail is strongly disfavored by the neighborhood for safety and traffic flow reasons.

Mr. Birgani's property is a unique one due to the manner in which he constructed it. That does not, however, entitle him to receive a zoning classification that is inconsistent with a residential neighborhood and that may pose traffic safety concerns. The current LR zoning is sufficient for Mr. Birgani to lease the property and is most consistent with its location among residences. For these reasons, I oppose Mr. Birgani's rezoning application.

Sincerely,
Jay Clendenin

November 20, 2017

To: Distinguished Council Member Mr. Jimmy Flannigan,

Austin City Hall
310 West 2nd Street
Austin, TX 78701

**SUBJECT: ISSUES RELATING TO SECOND PETITION AND
REQUEST FOR POSTPONEMENT**

Zoning case# C14-2017-0042
Case manager: Sherri Sirwaitis
Phone# (512) 974-3057
Sherri.sirwaitis@Austintexas.gov

Property Address: 12602 Blackfoot trail Austin Texas 78729

From: **Abraham Birgani** (Property owner)

Dear Mr. Flannigan and Mr. Smith

First, I would to thank you and your staff for taking the time to consider my zoning case. I know in the greater scheme, this is a small case. But for me, it is my lifetime investment (last 27 years of my lifetime earning). As we presented to City Council in the first reading, due to the oppressive past zoning restrictions, my property has been vacant for 14 out of the past 20 years. Even with a favorable outcome of my current zoning case, it is unlikely that I will be able to recoup my investment, but at least I will be able to mitigate the loss.

At the first reading, several council members had discussed the imposition of a conditional overlay prohibiting in all manners the sale of alcoholic beverages on the property. With the input of the city attorney, it was determined the Austin City Code does not allow the sale of alcoholic

beverages within 300 feet of a property on which a childcare facility is located. The only exception would be if Austin City Council granted a waiver and the TABC granted a license based on that waiver. I think that all council members agreed that that would be impossible. I agree that if a childcare facility is operating on the adjacent property, there should be no sale of any alcoholic beverages. In fact, I have made that abundantly clear to Ms. Rhonda Paver and Mr. Bill Paver of Stepping Stone Child Care. However, the imposition of a conditional overlay is overkill, and it places an undue burden on me if the adjacent property is no longer used for that purpose. In such case, I would have to again apply for rezoning to have the conditional overlay removed at great expense. I have already spent a King's fortune on rezoning, and it is not fair that I would have to be confronted with that again when the current city code fully protects Stepping Stone or any subsequent childcare facility on that property.

Now, that I am about to finally get some relief, Rhonda Paver with Stepping Stone Child Care has filed a second Petition protesting any zoning change other than LR-MU-CO or GR-MU-CO that would allow for the sale of alcohol. In addition, they and certain neighbors have filed another Petition protesting any zoning change that would: (1) permit the sale of alcohol from a property adjacent to a daycare/private education facility for infants, toddlers, and children, (2) would permit the sale of alcohol from a property adjacent to neighborhood residences, (3) not be necessary to permit reasonable business uses of the property, (4) not satisfy any public need, (5) set an undesirable precedent for other properties in the neighborhood surrounding the property, (6) not promote compatibility with adjacent and nearby uses, (7) result in detrimental impacts to the character of the neighborhood, (8) not promote a transition between adjacent and nearby zoning districts, and (9) not promote any clearly identified community goal.

Regarding Stepping Stone's Petition above - **On April 29, 1985, an Amendment on Restrictions on all Indian Oaks 2 abrogated all prior deed restrictions limiting the property use to residential purposes and allowed property within Indian Oaks 2 to "be used for any lawful purpose" (See EXHIBIT A).** When Rhonda Paver and William J. Paver (founders of Stepping Stone) obtained title to Lot 3, Indian Oaks 2 on June 19, 1986, they bought it as a commercial property subject to use "for any lawful purpose". Therefore, I view Stepping Stone's Petition in protest of my requested zoning change to anything other than the sale of alcohol as completely baseless and without merit. Regarding the sale of alcohol, Stepping Stone is protected

against the sale of alcohol under the Austin City Code. A conditional overlay to that effect is completely unnecessary and overly burdensome on me in the event of a change in use the Stepping Stone property. Finally, Stepping Stone has no standing to complain about any lawful use of my property any more than I would have the same complaint against the lawful use of their property

In short, Stepping Stone, a commercial property owner – not a resident, colluded with several neighbors to constitute a petition protesting almost any lawful and appropriate use of my property when the neighbors themselves would not be able to constitute a valid petition. It is also important to note that the vast majority of complaining neighbors bought their property when the adjacent storage facility was existent and after my property was fully commercial. I expect that at the final reading scheduled for December 7th (2nd and 3rd readings), that certain neighbors will launch a full-out assault on my reasonable zoning request with a slew of requests for restrictions. I implore you not to succumb to this. This goes beyond consideration of reasonable neighborhood concerns into the realm of inverse condemnation.

Thank you again for your consideration of my case! Please feel free to contact me before the final reading. Also, if you have 15 or more minutes, I would like to come in and speak to you in person about these issues and listen to your advice and feedback.

Finally, if your consideration of any existing petition would negatively affect your consideration of my current zoning request, please accept this letter as a formal request for a postponement so I can further discuss these issues with you and the Paver's family and owners of Stepping Stone Corporation.

Sincerely,
Abraham Birgani
Phone# (512) 998-2525
Cyrus_birgani@yahoo.com

EXHIBIT A

AMENDMENT OF RESTRICTIONS

Vol 1186

STATE OF TEXAS

S

18833

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WILLIAMSON

S

WHEREAS, by Deed recorded in Volume 500, Page 496, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", RAYMOND FLOYD DAVIS and wife, ALINE DAVIS, and BEULAH DAVIS, as Grantors, did convey to ROSCOE E. MILLEGAN and wife, ANNIE MILLEGAN, as Grantees, those six (6) tracts of land situated in Williamson County, Texas, as are more fully described on Exhibit "A"; and

WHEREAS, BEULAH DAVIS is now deceased and DIANA EICHSTATDT, joined herein by her husband, DONALD L. EICHSTATDT, is her only heir; and

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

WHEREAS, RICHARD BOUTON and wife, DIANE BOUTON, CRAIG H. SHERPERT and wife, BARBARA SHERPERT, DALE BARNES and FRANK C. WOLCHICK, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named MILLEGANS, BOUTONS, BARNES, SHERPERTS and WOLCHICK 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 29th day of April, 1985.

Roscoe C. Millegan
ROSCOE C. MILLEGAN

Annie Millegan
ANNIE MILLEGAN

Diana Eichstatdt
DIANA EICHSTATDT

Donald L. Eichstatdt
DONALD L. EICHSTATDT

Richard Bouton
RICHARD BOUTON

Diane Bouton
DIANE BOUTON

Craig H. Shempert
CRAIG H. SHERPERT

Barbara J. Shempert
BARBARA J. SHERPERT

Frank C. Wolchick Jr
FRANK C. WOLCHICK, JR.

Dale Barnes
DALE BARNES

STATE OF TEXAS

S

COUNTY OF TELLIS

S

this instrument was acknowledged before me on April 29, 1985, by