

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

**DATE: Monday May 14, 2018**

**CASE NUMBER: C15-2018-0017**

\_\_\_\_\_ Brooke Bailey (OUT)  
 \_\_\_\_\_ William Burkhardt  
 \_\_\_\_\_ Christopher Covo  
 \_\_\_\_\_ Eric Golf (OUT)  
 \_\_\_\_\_ Melissa Hawthorne (ABSTAINED)  
 \_\_\_\_\_ Bryan King  
 \_\_\_\_\_ Don Leighton-Burwell  
 \_\_\_\_\_ Rahm McDaniel  
 \_\_\_\_\_ Martha Gonzalez (Alternate)  
 \_\_\_\_\_ Veronica Rivera  
 \_\_\_\_\_ James Valdez  
 \_\_\_\_\_ Michael Von Ohlen (OUT)  
 \_\_\_\_\_ Kelly Blume (Alternate)  
 \_\_\_\_\_ Pim Mayo (Alternate)

**APPLICANT: Richard Suttle**

**OWNER: Seamless 290 West DE LTD AND SEAMLESS GCW LTD**

**ADDRESS: 1303,1307,1311 AND 1401 S LAMAR BLVD**

**VARIANCE REQUESTED:** The applicant has requested variance(s) to Article 10, Compatibility Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*) (C) (3) to increase the allowed height of a structure that is more than 100 feet but not more than 300 feet from property along the south and west property lines that is zoned SF-5 or more restrictive, from 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive from 50 feet (required, permitted) to 60 feet (requested) in order to construct a mixed use structure in a "CS-V", General Commercial Services - Vertical Mixed Use and "CS-V-CO", General Commercial Services - Vertical Mixed Use - Conditional Overlay zoning district.

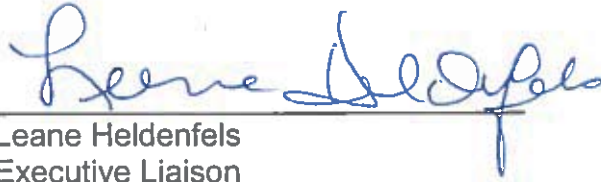
**BOARD'S DECISION:** May 14, 2018 POSTPONED TO JUNE 11, 2018 BY APPLICANT

**FINDING:**

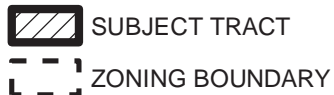
1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

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

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

  
Leane Heldenfels  
Executive Liaison

  
William Burkhardt  
Chairman



## PUBLIC NOTIFICATIONS

XXXXXXXXXX2018-07-09

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.







**CITY OF AUSTIN**  
**Development Services Department**  
 One Texas Center | Phone: 512.978.4000  
 505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

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

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

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

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

### For Office Use Only

Case # \_\_\_\_\_ ROW # \_\_\_\_\_ Tax # \_\_\_\_\_

### Section 1: Applicant Statement

Street Address: 1401, 1307, 1311 and 1303 S. Lamar Blvd.

Subdivision Legal Description:

0.606 acres of Lot 1 Maufrais Subdivision & 0.894 acres of Lot 1 Maufrais Subdivision  
Lot 3 Commercial Square and Lot 2A Commercial Square Resubdivision

Lot(s): 1, 3 and 2A Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: CS-V and CS-V-CO

I/We Richard Suttle on behalf of myself/ourselves as  
 authorized agent for Seamless 290 West DE LTD and Seamless GCW LTD affirm that on  
 Month April, Day 6, Year 2018, hereby apply for a hearing before the  
 Board of Adjustment for consideration to (select appropriate option below):

☒ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: \_\_\_\_\_

Type of Structure: Mixed Use

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

25-2-1063(C)(3) - Height Limitations and Setbacks for Large Sites.

The height limitations for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.

## Section 2: Variance Findings

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

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

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

### Reasonable Use

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

See Attachment A

### Hardship

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

See Attachment A

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

See Attachment A



**Area Character**

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

See Attachment A

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**Parking** (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

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

N/A

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

N/A

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

N/A

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

N/A

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**Section 3: Applicant Certificate**

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

Applicant Signature: [Signature] Date: \_\_\_\_\_

Applicant Name (typed or printed): Richard Suttle

Applicant Mailing Address: 100 Congress Ave., Suite 1300

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 435-2300

Email (optional – will be public information): \_\_\_\_\_

**Section 4: Owner Certificate**

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

Owner Signature: [Signature] Date: 4/5/18

Owner Name (typed or printed): Seamless 290 West DE LTD and Seamless GCW LTD

Owner Mailing Address: 4407 Bee Cave Rd., Suite 421

City: West Lake Hills State: TX Zip: 78746

Phone (will be public information): \_\_\_\_\_

Email (optional – will be public information): \_\_\_\_\_

**Section 5: Agent Information**

Agent Name: Richard Suttle

Agent Mailing Address: 100 Congress Ave., Suite 1300

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 435-2300

Email (optional – will be public information): \_\_\_\_\_

**Section 6: Additional Space (if applicable)**

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

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**Additional Space (continued)**

Exhibits have been provided to illustrate the request. The property is located nearly 238.3 feet away from the homes along the east side of South 7th Street and is further separated by floodplain/CWQZ and the railroad line. This area is densely wooded providing natural screening from the subject site (see photos attached). The proposed project will fully comply with compatibility requirements for the single family homes on the east side of South 7th Street. The variance request is from properties located west of South 7th Street that trigger compatibility, are located east of the railroad line and are within the 25 year floodplain, Critical Water Quality Zone and Erosion Hazard Zone. These factors prohibit construction on these triggering properties. As shown on the exhibits, Lots 1 and 2 are owned by the City of Austin and are undeveloped. Lot 3 has a boarded-up single family home that was built prior to the implementation of the Critical Water Quality Zone buffer. Lot 4 is vacant and located primarily in the CWQZ. The request adds only 10 feet of height to the back portion of the 5th floor of the building which will fully comply with the approved building height of 60 feet.

The hardship is unique to the site because other nearby VMU zoned properties along the east side of Lamar are not in close proximity to similar triggering Single Family zoned properties located in the 25-year floodplain and Critical Water Quality Zone. All four properties triggering compatibility are part of the West Bouldin Creek bed. Because these properties can never be developed, the close proximity of these properties unnecessarily limits development of a Vertical Mixed Use project.

A heritage tree will be preserved on site further limiting density. Approval of the variance will allow some of the lost density to be regained.

**SAVE**



## Attachment A

### Section 2: Variance Findings

#### Reasonable Use

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

Ordinance No. 20081016-049 added the V combining district allowing owners to construct VMU buildings along Core Transit Corridors such as Lamar Boulevard. However, most sites with V combining district are not located in close proximity to single family properties which trigger compatibility and limit the building height. In this case, the triggering single family zoned properties are 1) located east of a railroad line that separates the triggering properties from the subject property and 2) located within the 25 year floodplain and in a Critical Water Quality Zone (CWQZ), neither of which allow construction on these properties today.

#### Hardship

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

A heritage tree is being preserved on the property which reduces density on the site. To recapture some of this lost density, a variance from compatibility is requested based on the following. Compatibility setback and height restriction requirements are being triggered from properties to the east of the site that are separated by a railroad and located in a 25 year floodplain/ Critical Water Quality Zone / Erosion Hazard Zone. All triggering properties except two are owned by the City of Austin (Lots 1 & 2), are currently undeveloped, and because of their location in the CWQZ, they cannot be developed. The other triggering properties are 1108 Jewell Street (Lot 3), a boarded-up single family home and 1405 S. 7<sup>th</sup> Street, a vacant lot (Lot 4). A vast majority of these properties are in the CWQZ and could not be constructed today.

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

Most of the other VMU zoned properties along the east side of Lamar are not in close proximity to similar triggering Single Family zoned properties to the east. Additionally they are not in close proximity to single family triggering properties located in floodplain, the critical water quality zone or the erosion hazard zone. All four properties triggering compatibility are part of the West Bouldin Creek bed.

#### Area Character

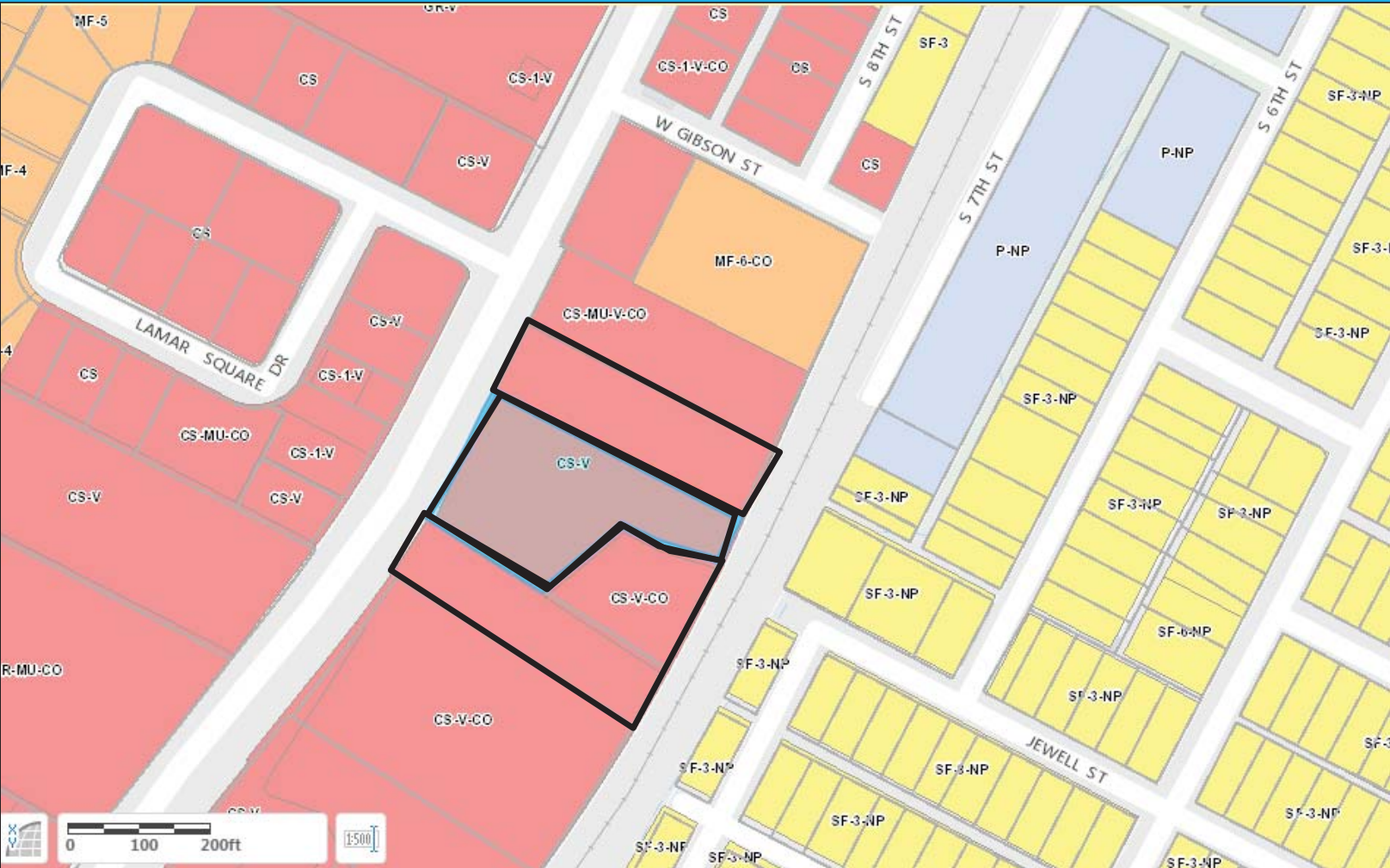
**The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:**

The compatibility setback will be measured from the Single Family zoned properties on the east side of 7th Street that are outside of the floodplain\CWQZ and are the closest occupied single family residences. Having the slightly greater distance setback will allow for the development of the proposed Vertical Mixed Use project along a Core Transit Corridor while complying with the compatibility setback

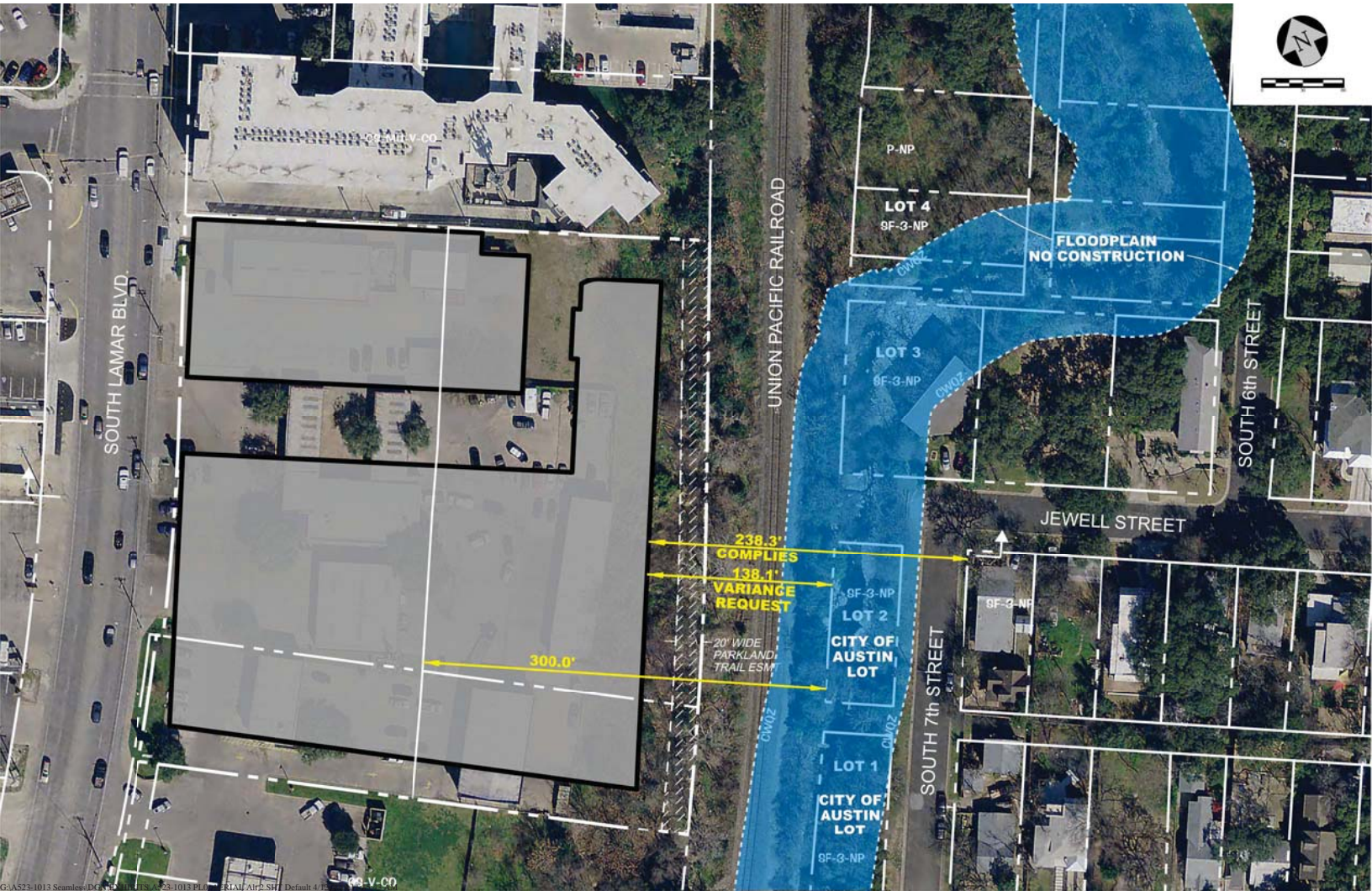
**Attachment A**

guidelines. VMU zoning for this property limits height to 60 feet. The project will comply with this height limit. Additionally, the floodplain/CWQZ between the railroad and 7th Street is densely wooded providing a natural visual barrier to the subject property (see photos attached).

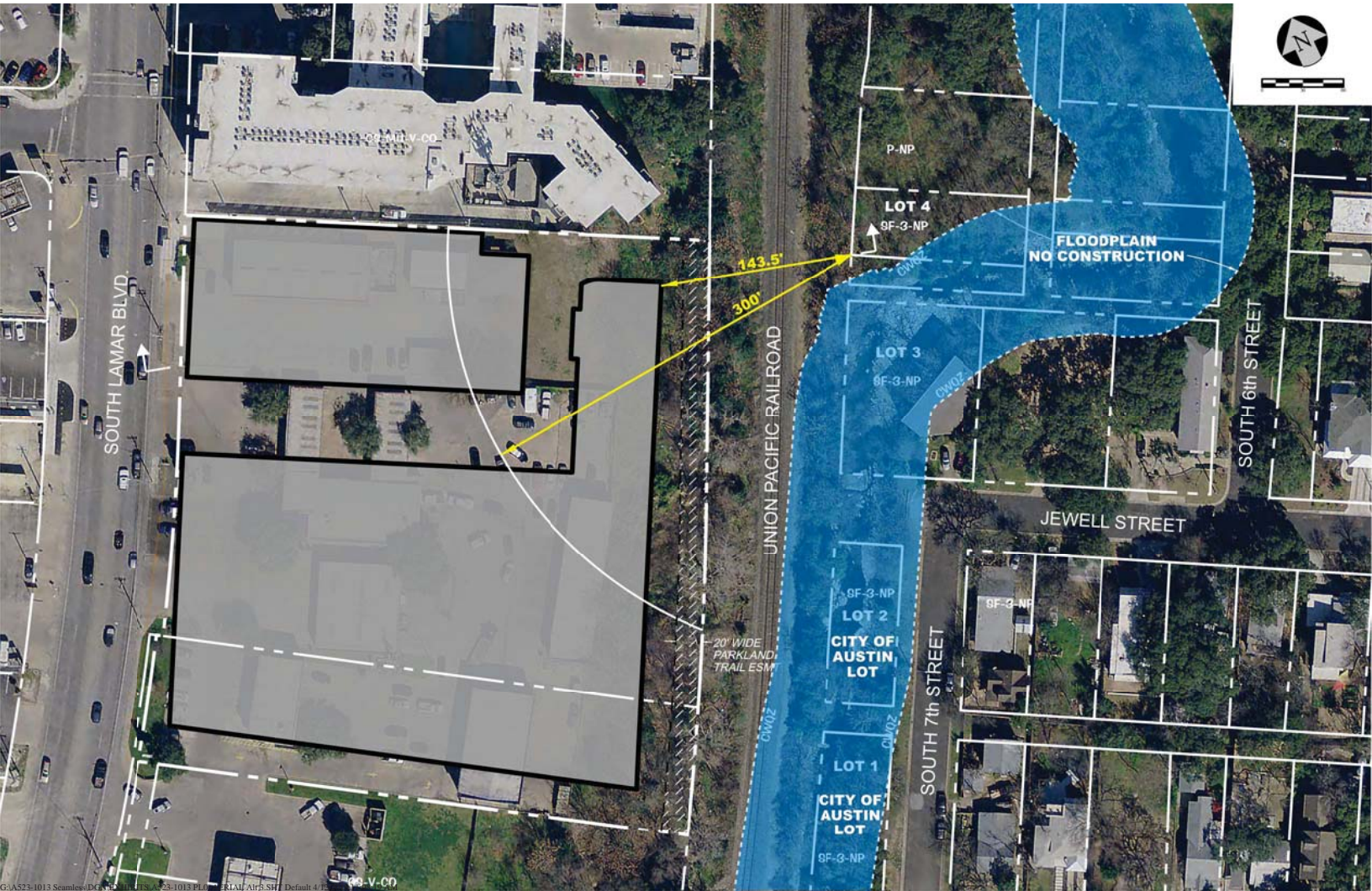




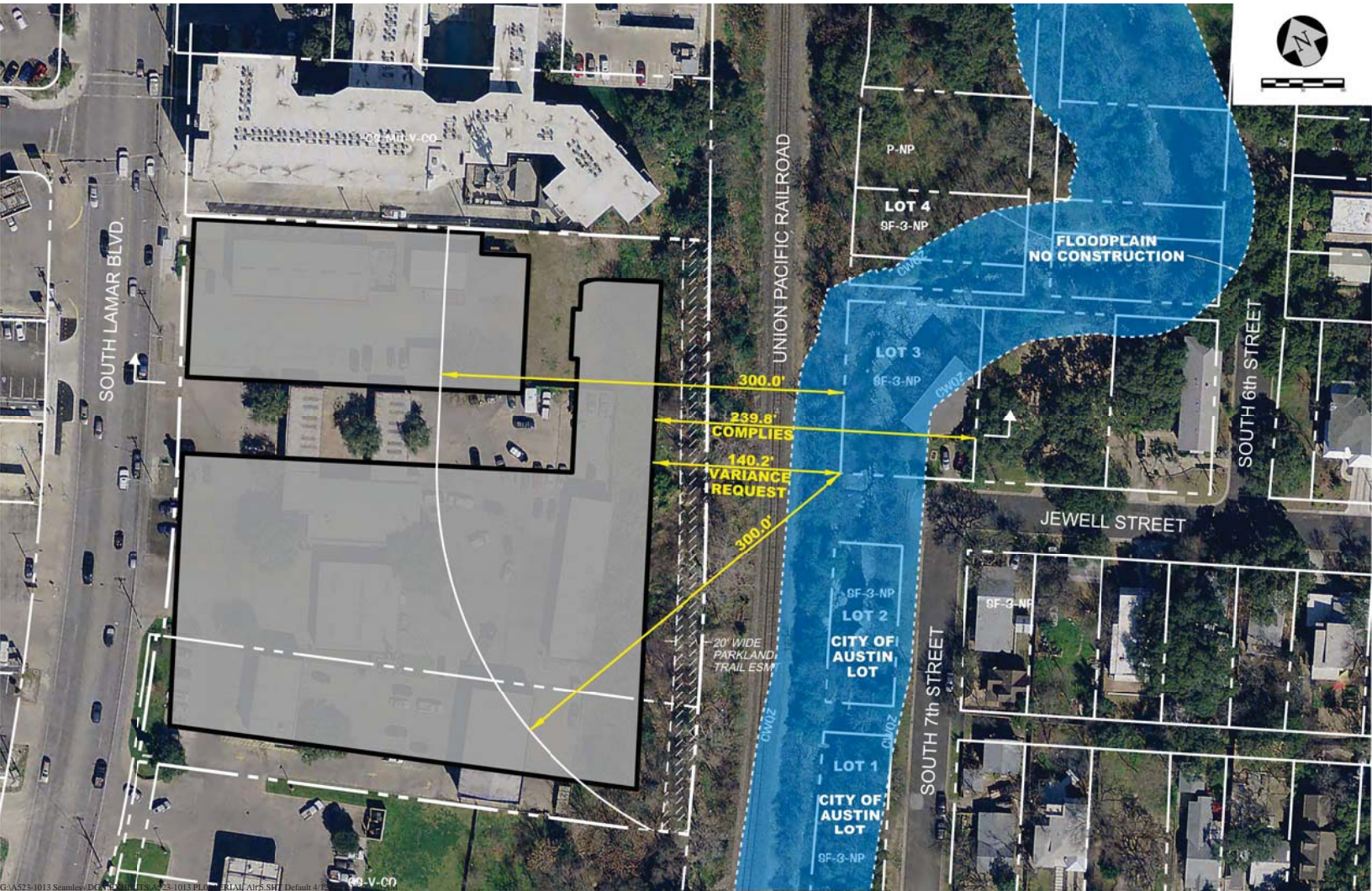






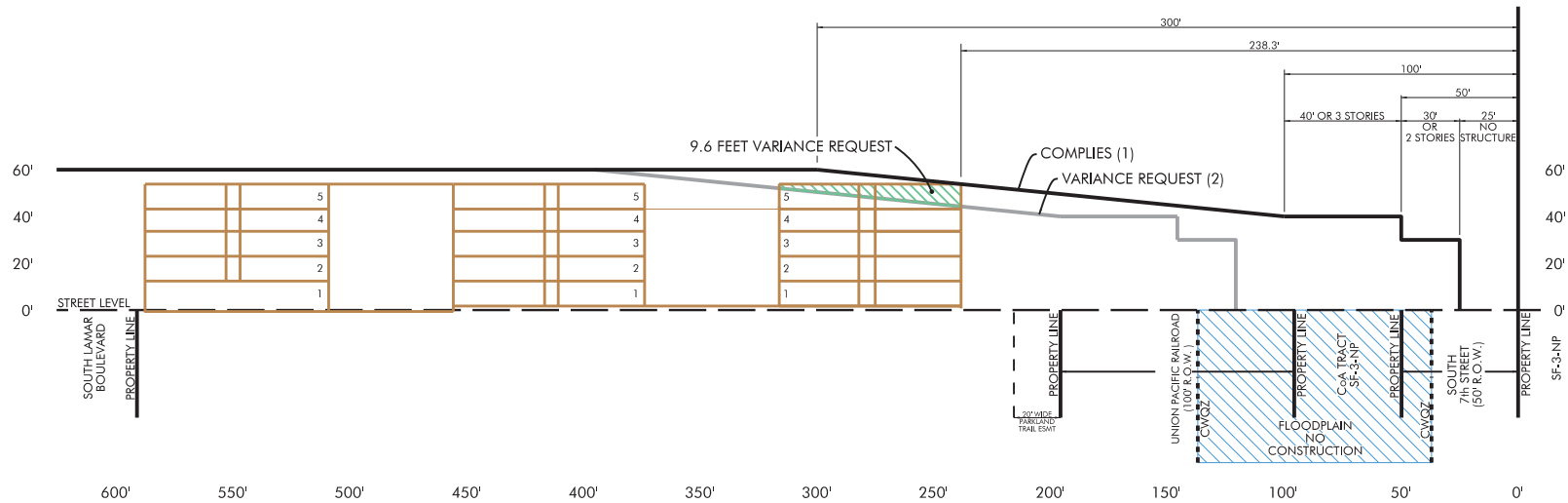


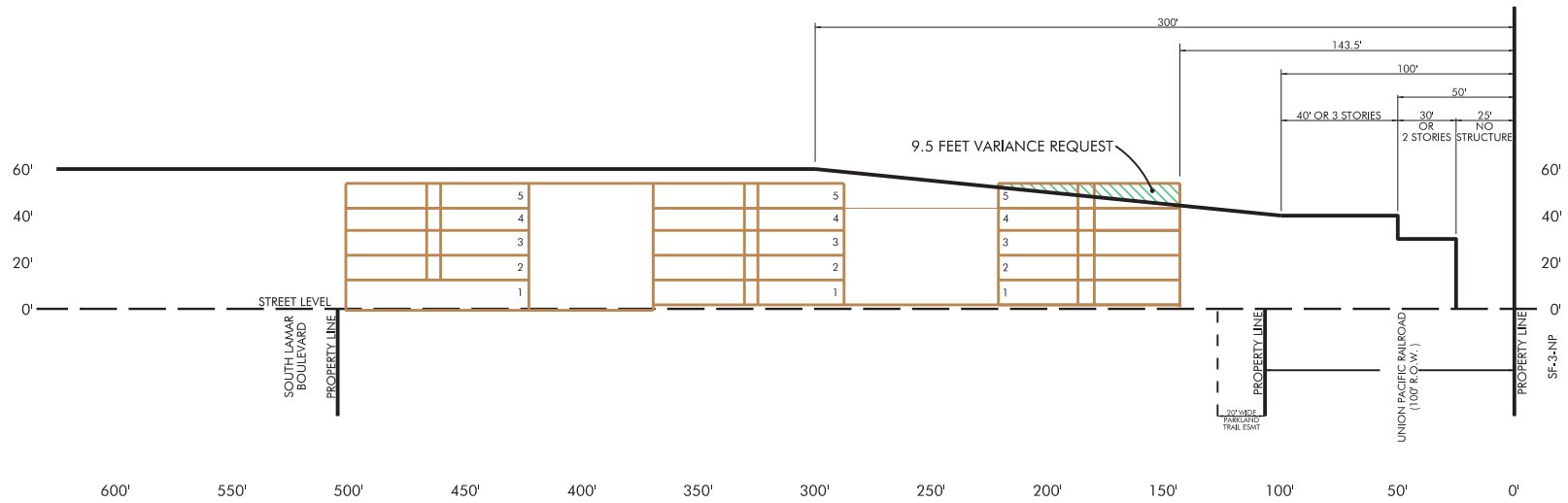






- (1) COMPLIES WITH COMPATIBILITY AND MAXIMUM ALLOWABLE BUILDING HEIGHT WHEN MEASURED FROM PROPERTY LINE OF EXISTING SINGLE FAMILY HOMES ALONG 7TH STREET.
- (2) VARIANCE REQUEST. MAXIMUM ALLOWABLE BUILDING HEIGHT WHEN MEASURED FROM THE PROPERTY LINE OF LOTS OWNED BY CITY OF AUSTIN THAT ARE LOCATED IN THE FLOODPLAIN AND THEREFORE PROHIBIT CONSTRUCTION.





























**ARMBRUST & BROWN, PLLC**

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

Richard Suttle, Jr.  
(512) 435-2310  
[REDACTED]

May 11, 2018

Leane Heldenfels  
Board of Adjustment Liaison  
City of Austin  
Development Services Department  
505 Barton Springs Road, 1<sup>st</sup> Floor  
Austin, TX 78704

Re: Item H-1 (C15-2018-0017): 1303, 1307, 1311 and 1401 South Lamar Blvd.

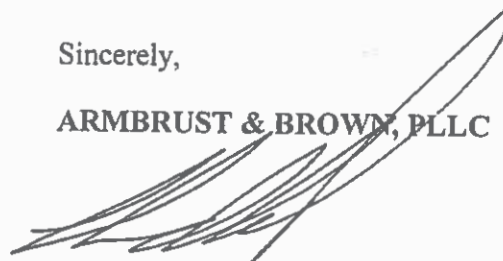
Dear Ms. Heldenfels:

The purpose of this letter is to request a one month postponement for Item H-1 (C15-2018-0017) at the Board of Adjustment meeting on May 14, 2018 to June 11, 2018. The postponement will allow for additional time to meet with the property owner located at 1108 Jewell Street. We have been in communication with the property owner and would like the opportunity to go over the request in more detail before the meeting as this is the only resident being directly impacted by the variance request.

Please contact me if you have any questions, or if you need additional information.

Sincerely,

ARMBRUST &amp; BROWN, PLLC

  
Richard Suttle, Jr.



Date: May 10, 2018

TO: Board of Adjustment

Subject: Case C15-2018-0017  
1303-1401 S. Lamar, Austin TX 78704

Board Members,

The Bouldin Creek Neighborhood Association at its May 7 Steering Committee meeting voted "No Position" on the applicant's compatibility setback variance request for above subject properties.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Strange", is written over the printed name.

Paul Strange  
VP External Affairs and Zoning Chair



From: [Heldenfels, Leane](#)  
To: [Ramirez, Diana](#)  
Subject: C15-2018-0017/1302, 1307, 1311, and 1401 S. Lamar Blvd may late back up  
Date: Thursday, May 10, 2018 12:25:16 PM

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-----Original Message-----

From: [REDACTED]  
Sent: Wednesday, May 09, 2018 10:00 PM  
To: Heldenfels, Leane  
Subject: C15-2018-0017

Leane,

I am writing that I am in favor of the variance for increased height limitation at 1302, 1307, 1311, and 1401 S. Lamar Blvd. This would be better use of this space to add density and amenities.

Thanks,

Chris Curtis  
1500 S. Lamar Blvd. Apt 4060  
Austin, Texas 78704  
6206178437

## Zilker Neighborhood Association

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zilkerneighborhood@gmail.com  
2009 Arpdale ♦ Austin, TX 78704 ♦ 512-447-7681

May 7, 2018

Re: Case C15-2018-0017  
1303-1401 S. Lamar, Austin TX 78704

Chair William Burkhardt and Board of Adjustment Members:

After recently completing 18 months of negotiations on a restrictive covenant and rezoning of this property, the Executive Committee of the Zilker Neighborhood Association is disappointed that the owners have now chosen to pursue an additional increase in development entitlements through this variance. The application contradicts information that was used as a basis for the ZNA, City staff, and Planning Commission recommendations to the City Council in connection with the rezoning cases in March 2017 and March 2018. The variance application presents no evidence that the zoning code places constraints on the redevelopment of this three-acre property that do not apply to the other VMU properties along South Lamar. In fact, the recent upzoning grants this property entitlements that are much greater than those available to the adjacent VMU property. Documentation of the upzoning confirms that the request to increase the height of new construction within the residential compatibility setback meets none of the findings required for a variance. We therefore urge you to deny this variance request.

### **Reasonable Use**

In November 2016, the ZNA Zoning Committee began working with the applicant to rezone a large portion of the property and remove the previous 0.3:1 floor-to-area ratio limit. The rezoning was approved by the City Council in March 2018, at the same time that a private restrictive covenant was finalized between the owners and ZNA.

Exhibit A (Alta South Lamar) is a section of the site presented to ZNA in February 2017 when we were trying to calculate the maximum buildout of the property without the 0.3 FAR limit placed on it in 1989. On this portion of the property, the 0.3 FAR limit restricted the maximum size of a redevelopment project to 7,919 sf, regardless of the height limit; removal of the FAR limit increased the maximum potential redevelopment to 105,588 sf (with a limit of four floors within the compatibility setback). The variance application offers no explanation for how a seven-fold increase in development entitlements can possibly result in a denial of reasonable use.

In February 2017, the redevelopment proposal was for a VMU project with 226 multifamily units. The current variance request is for a VMU project with only 150 units. Again, the variance application does not explain how the applicant's decision to build fewer units on a larger property has anything to do with a denial of reasonable use.

### **Hardship**

a) The application is arguing that the triggering SF-3 properties are somehow unworthy of the protections of the compatibility setbacks and that therefore the hardship is the code



requirement itself. The remedy to the first point is the rezoning of the triggering properties. That should be a fairly easy solution in the case of the City-owned properties, which could be rezoned for public or park uses in the CodeNext revision process. Rezoning the privately owned parcel is a question for the property owner. The house on the private property is not actually below the floodplain, and it retains safe access to the street, so it could most likely be remodeled or rebuilt without a floodplain variance. It definitely retains significant value as a residential property. Neither situation, however, can be resolved by the Board of Adjustment.

The location of the SF-3 properties within the floodplain presents a hardship for the owners of the SF-3 properties, but not for the commercial properties on South Lamar that loom over the residential areas to the east and west. Whether the SF-3 properties are vacant or occupied by residences is immaterial to the application of the code. In short, there is no hardship at 1303-1401 S. Lamar.

b) The existence of remnants of SF-3 zoning within or near the floodplain is general to the area between South Lamar and the railroad tracks and West Bouldin Creek, including Evergreen, West Mary, West Oltorf, Thornton, and so on. ZNA has worked on at least 9 similar cases in this area. Most of them have been resolved by rezoning. Some of those cases first wasted hours and hours of ZNA volunteer time and many more hours of Board of Adjustment hearing time making the same arguments presented in this case.

Exhibit B (2003 S. Lamar) is a zoning map from a previous case illustrating the distribution of SF-3 properties that trigger compatibility setbacks along South Lamar.

### **Area Character**

For years ZNA has been negotiating new development proposals along South Lamar based on the need to preserve the height limits and compatibility setbacks. When we are presented with a sketch like the one in Exhibit A, we are acutely aware that the four-story building looming over the banks of Bouldin Creek is likely to have a rooftop dining area or swimming pool or both. Protecting existing neighbors in multifamily as well as single-family housing from these mostly unregulated outdoor late-night noise generators has become a major concern. The higher the rooftop, the greater the reach of the noise and nuisance, extending well beyond the 250 feet of the setback. ZNA's recent restrictive covenant with the owner was based on the new building's compliance with the compatibility height limit so that noise from the rooftop "amenities" will be contained on the site and not projected up and down Bouldin Creek or into residences west of South Lamar. This principle is being applied to all the redevelopment projects on South Lamar. ZNA considers it vital to the preservation of the quality of life and residential character of the entire area.

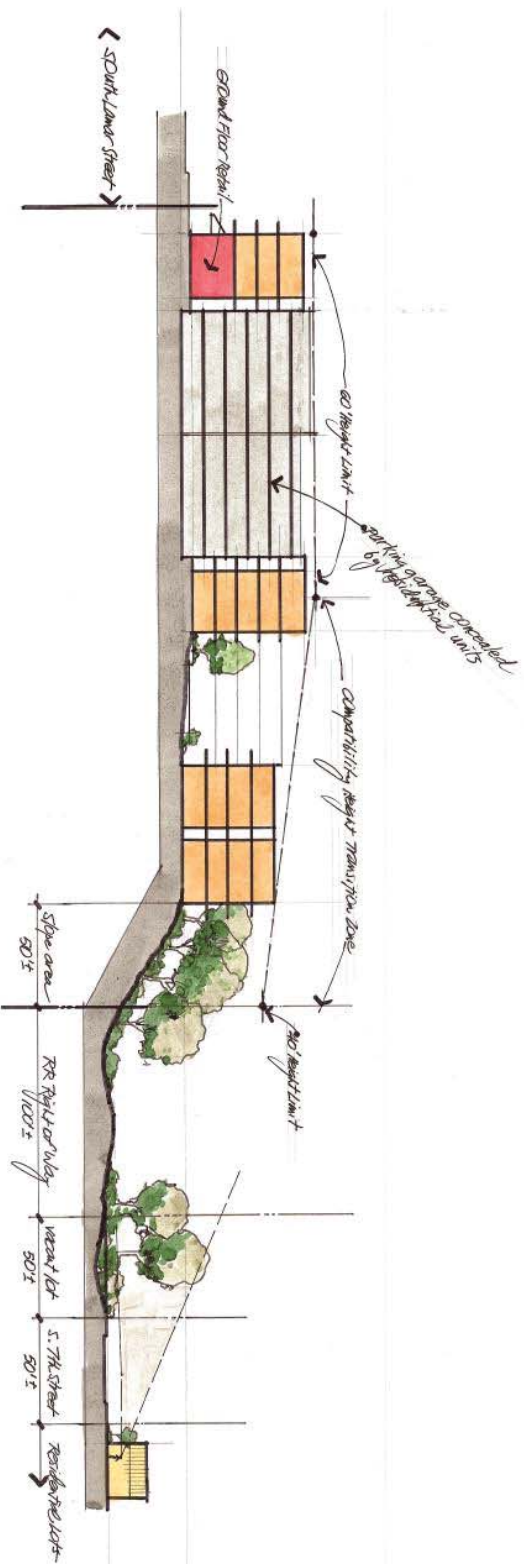
Under the circumstances, the ZNA Executive Committee must oppose this variance. We request that the Board of Adjustment deny the variance.

ZNA appreciates your service to our community.

Lorraine Atherton,  
For the ZNA Executive Committee

ZNA Exhibit A  
C15-2018-0017

1303-1401 S. Lamar



0 25 50 100 Feet

SITE SECTION

Alta South Lamar  
Austin, Texas

Job # 17015.00  
File Name: Alta South Lamar Site Section\_100717  
Date: 10-03-17  
Drawn by: RLG



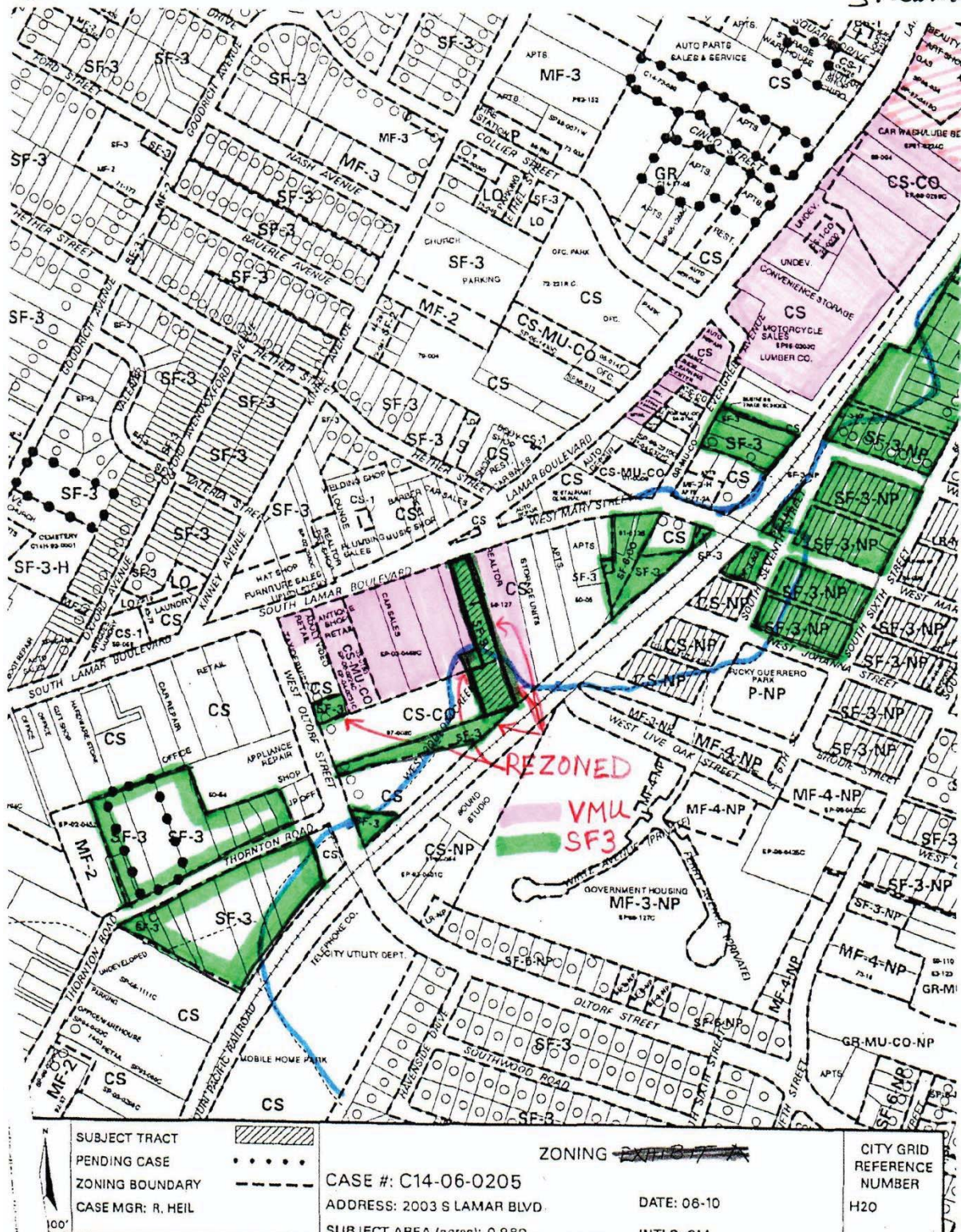
2808 Falmouth Street, Suite 300  
Dallas, Texas 75201 | 214.383.1500

3000 West 7th Street, Suite 110  
Fort Worth, Texas 76102 | 817.383.1500



ZNA Exhibit B  
C15-2018-0017

1303-1401  
S. Lamar



From: [Heldenfels, Leane](#)  
To: [Ramirez, Diana](#)  
Subject: C15-2018-0017/2126 Goodrich 6/11 advance packet  
Date: Monday, May 14, 2018 12:30:57 PM

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Hi D - I'm not going to bring a hard copy of this to the meeting because I don't think anyone will object to the postponement request since it's the first one, but do include in next month's advance packet.

Thanks –  
Leane

From: [REDACTED]  
Sent: Monday, May 14, 2018 12:00 PM  
To: Heldenfels, Leane; Mary  
Subject: Case # C15-2018-0017 Friends of Zilker Neighborhood Association supportive vote results

**Leane,**

I wanted to let you know that our neighborhood **association, Friends of Zilker, has voted to support the requested variance for 1303, 1307, 1311 and 1401 S. Lamar.**

**Let me know if you have any questions.**

**Thank you,**

**Rob Parsons**

FOZ supports the applicant requesting a 10' height variance to the rear portion of a proposed mixed use redevelopment on the site of the existing Genie Car Wash. This variance is needed to overcome a height compatibility limit triggered by single family lots across the railroad tracks in Bouldin.

YES 15  
NO 1

--  
Robert Parsons Jr.  
512.565.2321