

ZONING CHANGE REVIEW SHEET

CASE: C14-2018-0044 – First Citizens Bank DISTRICT: 10

ZONING FROM: LO TO: CS-CO

ADDRESS: 4101 Marathon Boulevard

SITE AREA: 0.419 acres (18,235 sf)

OWNER: First Citizens Bank (Elizabeth Kolepp-Mayer)

APPLICANT: Kimley Horn and Associates (Joel Wixson)

CASE MANAGER: Scott Grantham (512-974-3574, scott.grantham@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends Neighborhood Commercial (LR) district zoning. *For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

June 5, 2018 Approved postponement request by staff to June 19, 2018.
Vote 10 - 0.

June 19, 2018 Approved postponement request by staff to July 17, 2018.
Vote 9 - 0.

July 17, 2018 Approved postponement request by staff to August 7, 2018.
Vote 9 - 0.

August 7, 2018 Scheduled for Zoning and Platting Commission

CITY COUNCIL ACTION:

June 28, 2018 Approved postponement request by staff to August 9, 2018.
Vote 11 - 0.

August 9, 2018 Scheduled for City Council

ORDINANCE NUMBER:

ISSUES:

The applicant has requested a zoning change to general commercial services-conditional overlay (CS-CO). Their conceptual plan is for a bank, defined as Financial Services in the Land Development Code (§ 25-2-4). This use would be allowed in a more restrictive zoning district, such as neighborhood commercial (LR) or community commercial (GR). However, the applicant is in the preliminary planning stages and would like to maximize flexibility in site development and have therefore requested the CS zoning category. The applicant has volunteered a conditional overlay which would prohibit a set of land uses (See Exhibit D, Proposed Restricted Uses).

For this zoning case, a Neighborhood Traffic Analysis (NTA) was required, because of the location along Marathon Boulevard, a street with a large proportion of SF-3 zoned properties, and new traffic generated which exceeds the threshold set out in the Land Development Code (25-6-114). The applicant collected traffic count data in key locations and delivered them to transportation staff; staff then conducted an NTA, and determined that mitigation would be required. The identified mitigation is the reconstruction of the adjacent public alley, which runs north-south, just to the east of the subject property. The intent is to provide improved vehicular access to and from W. 41st Street and the site. To fulfill this mitigation, the applicant must post fiscal prior to third reading of City Council, and commit to the reconstruction of the alleyway at the time of site plan. (See Exhibit E, NTA Memo).

Staff's recommendation is to grant community commercial (LR) zoning, based on the property's specific location in a neighborhood with land use transitions. The property is in the Rosedale neighborhood, between N. Lamar to the east, Medical Parkway to the west, north of 40th Street and south of 45th street. In the southern part of this triangle are more intensive commercial uses. Heading north along Marathon, a gradual transition occurs between commercial retail south of 41st to a mix of offices and residences, to a predominantly single family neighborhood north of 43rd Street. On the block that contains the subject property, on either side of Marathon, there appear to be four actual single family residences.

The transition in land uses from north to south is mirrored by zoning. There is CS zoning south of 41st street, but not as yet to the north of 41st, with the exception of properties fronting on North Lamar. W 41st Street has been the traditional dividing line between CS and non-CS zoned properties in the area; the subject property is located north of W. 41st, on the side of the line that has traditionally not had CS or more intensive zoning.

There is a private restrictive covenant on the property, which limits the type of development which can occur (Exhibit E, Private Restrictive Covenant). The City of Austin is not a party to this agreement, nor can the City enforce the terms of the agreement.

The site will be subject to compatibility standards from the SF-3 zoned property, located across Marathon Boulevard from the subject property.

CASE MANAGER COMMENTS:

The subject property is approximately 0.4 acres or 18,000 square feet, and consists of five lots at the corner of Marathon Blvd and W. 41st Street. (See Exhibit C, Field Notes and Survey). The site is relatively flat and is not in the flood plain.

There are two medical office buildings currently located on the subject property. Both of these offices take access to Marathon Boulevard, and to the midblock alley between Lamar and Marathon. The north building has a parking lot on the north and east sides of the building. The south building has parking to the east and west of the building.

The applicant has a conceptual plan to construct a two-story bank building. The ground floor would provide traditional retail branch bank services, including full-service teller. There are plans for automatic teller machines (ATMs) both inside and outside; there are no plans for a drive-through. The second floor would be dedicated to banking offices.

North of the subject property and on the same block are a small commercial retail shop, a two story office building, and a single family house. East of the property along Lamar are a bank, a vet clinic, an auto sales and service location, and medical office. Across Marathon Boulevard to the west are a medical office, and some single family houses, some of which have been converted to offices. To the south, across 41st Street are offices, medical offices, and some personal service uses.

BASIS OF RECOMMENDATION:

Staff recommends Neighborhood Commercial (LR) district zoning.

The applicant request was for general commercial services (CS); however, it is staff's opinion that this zoning would be too intense for the immediate area, and that neighborhood commercial (LR) zoning would meet the needs of the applicant and the neighborhood.

The first basis of the recommendation is that the proposed zoning should be consistent with the purpose statement of the district sought. "[LR] is intended for neighborhood shopping facilities that provide limited business services and office facilities predominately for the convenience of residents of the neighborhood." This paraphrase from the Land Development Code points to an ease of use by locals, and doesn't rule out a wider group of patrons.

The second basis is that zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities. The recommended LR zoning effectively steps down from south to north - general commercial services (CS) south of 41st Street to neighborhood commercial (LR) to limited office (LO) to family residence (SF-3). Likewise, it steps down from east to west, from CS along Lamar to LR on the east side of Marathon to LO on the west side of Marathon.

The third basis is that rezoning should not contribute to the over zoning of the area. The LR zoning designation will allow for the applicant's desired use – Financial Services – without a large increase in development entitlements, such as impervious cover, through zoning.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO	Office
North	LO	Office
South	W. 41 st St, then CS	W. 41 st St, then Office
East	Alley, then CS-V	Alley, then Office (bank)
West	Marathon Blvd, then LO, SF-3	Marathon Blvd, then Office, Single Family

NEIGHBORHOOD PLANNING AREA: Rosedale (no neighborhood plan)

TIA: Not Required

WATERSHED: Waller Creek

OVERLAYS: None

SCHOOLS: Bryker Woods Elementary, O Henry Middle School, Austin High School

NEIGHBORHOOD ORGANIZATIONS

45th St. Concerned Citizens
 Austin Independent School District
 Austin Neighborhoods Council
 Bike Austin
 Central Austin Community Development Corporation
 Friends of Austin Neighborhoods
 Homeless Neighborhood Association

Neighborhood Empowerment Foundation
 North Austin Neighborhood Alliance
 Preservation Austin
 Rosedale Neighborhood Assn
 Seltexas
 Shoal Creek Conservancy
 Sierra Club Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-97-0004 Fleher Rezoning 4103 Marathon Blvd	SF-3 to LO	03-04-97 – Apvd LO	04-24-97- Apvd LO
C14-2009-0146 Austin Vet Care 3923 Medical Parkway	CS-MU-CO (to change the Conditional Overlay)	12-15-09- Apvd CS- MU-CO	01-14-10- Apvd CS- MU-CO (new CO for max height of 40 ft or 3 stories, limit of 2,000 trips per day, and a set of prohibited uses)
C14-2008-0004 Rosedale Neighborhood Planning Area VMUse Bldg. Zoning Opt In/Opt Out	Vertical Mixed Use (VMU)	02-26-08- Apvd V	04-10-08- Apvd V
C14-2007-0074 3923 Medical Parkway Rezoning - City Initiated	LR & CS to CS-MU- CO.	06-19-07- Apvd CS- MU-CO (CO for max height of 40 – 46 ft, prohibited uses)	06-26-07 – Apvd CS-MU-CO ((CO for max height of 40 – 46 ft, prohibited uses)
C14-05-0080 CTVS Offices 3921 Medical Parkway	LR & SF-3 to CS	09-20-05 – Apvd LR for SF-3 portion, Denied CS zoning, leaving LR in place	08-24-06- Apvd LR zoning for SF-3 portion.

RELATED CASES:

The subject property is 0.419 acres (approximately 18,235 sq. ft.), being all of lots 16, 17, 18, 19 and 20, block 3, Lee's Hill, a subdivision in Travis County, Texas, recorded in Volume 2, Page 244 of the Plat Records Of Travis County, Texas. (See Exhibit C, Field Notes and Survey).

In 1997, the northern portion of the property was rezoned from SF-3 to LO. Zoning case number C14-97-0004).

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Marathon Blvd	60 feet	36 feet	Local	Yes, east side	No	Yes
W 41 st Street	55 feet	28 feet	Local	No	No	Yes

OTHER STAFF COMMENTS:Comprehensive Planning

The zoning case is located on the northeast corner of Marathon Boulevard and 41st Street on two tracts of land that combined are 0.42 acres in size, and contain two office buildings. The subject property is located within the boundaries of the Rosedale NPA, which does not have an adopted plan. Surrounding land uses includes a retail use to the north; a two story office building to the south; a bank to the east; and several small office buildings to the west. The proposed use is a bank.

Connectivity

The site is within a short walking distance to several public transit stops. The Walkscore for this area is 86/100, **Very Walkable**, and most errands can be accomplished on foot. The site is within walking distance to two urban trails. There is an incomplete public sidewalk system located along W. 41st Street and Marathon Blvd.

Imagine Austin

While the property is located 200 ft. away from a Activity Corridor, located along North Lamar Blvd, based on the comparative scale of the site relative to adjacent commercial and office uses on Marathon Blvd., North Lamar Blvd., and 41st Street, this case falls below the scope of Imagine Austin, which is broad in scope, and consequently the plan is neutral on the proposed rezoning.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller Creek Watershed of the Colorado River Basin, which is classified as an Urban

Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Zoning district impervious cover limits apply in the Urban Watershed classification.

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.

Some 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.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

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.

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.

The site is subject to compatibility standards. Along the northwest property line, 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.

Transportation

A Neighborhood Traffic Analysis is required for this project. The NTA requires three (3) consecutive 24 hour tube counts, preferably on Tuesday, Wednesday, and Thursday, during a non-holiday week when school is in session. Please contact Scott James (Scott.James@austintexas.gov) or myself to discuss the location of the tube counts. Results will be provided in a separate memo. LDC 25-6-114. Please pay the NTA fees with the Intake staff on the 4th floor. This comment will be cleared once the Memo is approved and the fees are paid.

A Traffic Impact Analysis shall be required at the time of site plan if triggered per LDC 25-6-113. LDC. 25-6-113. Per Ordinance No. 20170302-077, off-site transportation improvements and mitigations may be required at the time of site plan application.

Additional right-of-way maybe required at the time of subdivision and/or site plan.

If the requested zoning is granted, it is recommended that joint access be provided for Lots 16, 17, 18, 19, and 20, Block 3 to Marathon Boulevard and the adjacent alley.

Janae Spence, Urban Trails, Public Works Department, Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

FYI – Existing and proposed driveways, sidewalks, curb ramps, etc. shall be constructed to City of Austin standards at the time of the site plan application. Driveways, sidewalk, and curb ramp reconstruction may be required. Sidewalk are required to be constructed along 41st Street at the time of the site plan application.

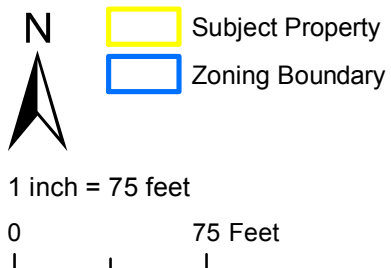
Austin Water Utility

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.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Map
- C. Field Notes and Survey
- D. Memorandum from Applicant – Proposed Restricted Uses
- E. Neighborhood Traffic Analysis Memorandum
- F. Private Restrictive Covenant





ZONING & VICINITY

Zoning Case: C14-2018-0044
 Address: 4101 Marathon Blvd.
 Subject Area: 0.419 Acres
 Case Manager: Scott Grantham

This map has been produced for 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.





**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724

Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**0.419 ACRES ZONING DESCRIPTION
CITY OF AUSTIN
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 0.419 ACRES (APPROXIMATELY 18,235 SQ. FT.), BEING ALL OF LOTS 16, 17, 18, 19 AND 20, BLOCK 3, LEE'S HILL, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 2, PAGE 244 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND THAT ADJACENT PORTION OF VACATED MARATHON BOULEVARD BY ORDINANCE RECORDED IN VOLUME 3905, PAGE 1197 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAVE AND EXCEPT A PORTION OF LOT 16 CONVEYED TO THE CITY OF AUSTIN BY DEED RECORDED IN VOLUME 3299, PAGE 2080 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.419 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the current east right-of-way line of Marathon Boulevard (right-of-way width varies) and the projected north line of Lot 20, same being the projected south line of Lot 21, Block 3 of said Lee's Hill;

THENCE South 62°24'05" East, with the projected common line of Lot 20 and Lot 21, and the common line of Lot 20 and Lot 21, a distance of 152.00 feet to a calculated point in the west line of a 20' alley for the northeast corner of Lot 20, same being the southeast corner of Lot 21, from which a 1/2" rebar found in the west line of said 20' alley, for the northeast corner of Lot 24, Block 3, of said Lee's Hill, same being the southeast corner of Lot 25, Block 3, of said Lee's Hill, bears North 27°37'12" East, a distance of 99.91 feet;

THENCE South 27°37'12" West, with the east line of Lot 20, Lot 19, and Lot 18, same being the west line of said 20' alley, a distance of 74.93 feet to a 1/2" rebar with "Chaparral" cap set for the southeast corner of Lot 18, same being the northeast corner of Lot 17;

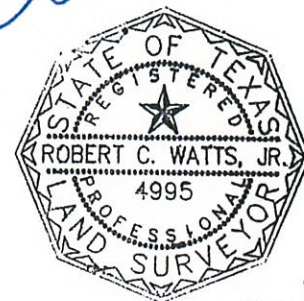
THENCE South 27°37'12" West, with the east line of Lot 17 and Lot 16, same being the west line of said 20' alley, a distance of 44.96 feet to a calculated point in the north line of W 41st Street (55' right-of-way width), from which a 1/2" iron pipe found in the south line of W 41st Street, bears South 27°37'12" West, a distance of 55.00 feet;

THENCE North 62°27'57" West, with the north line of W 41st Street and crossing, in part, Lot 16, a distance of 151.98 feet to a 1/2" rebar found at the intersection of the north line of W 41st Street and the east line of Marathon Boulevard;

SKETCH TO ACCOMPANY A DESCRIPTION OF 0.419 ACRES (APPROXIMATELY 18,235 SQ. FT.), BEING ALL OF LOTS 16, 17, 18, 19 AND 20, BLOCK 3, LEE'S HILL, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 2, PAGE 244 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND THAT ADJACENT PORTION OF VACATED MARATHON BOULEVARD BY ORDINANCE RECORDED IN VOLUME 3905, PAGE 1197 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAVE AND EXCEPT A PORTION OF LOT 16 CONVEYED TO THE CITY OF AUSTIN BY DEED RECORDED IN VOLUME 3299, PAGE 2080 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.

LEGEND

- 1/2" REBAR FOUND (OR AS NOTED)
- 1/2" REBAR WITH "CHAPARRAL" CAP SET
- ⊙ 1/2" IRON PIPE FOUND
- △ CALCULATED POINT
- () RECORD INFORMATION



DATE OF SURVEY: 05/10/17
PLOT DATE: 04/20/18
DRAWING NO.: 586-041
PROJECT NO.: 586-041-ZN1
T.B.P.L.S. FIRM NO. 10124500
DRAWN BY: JPA
SHEET 1 OF 2

Chaparral

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983 (NAD83), CENTRAL ZONE, BASED ON GPS SOLUTIONS FROM THE NATIONAL GEODETIC SURVEY (NGS) ON-LINE POSITIONING USER SERVICE (OPUS)

ATTACHMENTS: METES AND BOUNDS DESCRIPTION
586-041-ZN1



July 31, 2018

Mr. Scott Grantham
City of Austin
Planning and Zoning Department
505 Barton Springs Road, 5th Floor
Austin, TX 78704

Re: *Zoning Case C14-2018-0044*
 Voluntary Land Use Restrictions
 4101 and 4103 Marathon Boulevard
 Austin, Texas 78756

Mr. Grantham:

First Citizens Bank, the owner and proposed self-developer of the of the above referenced property, initially sought to rezone the property from Limited Office (LO) to General Commercial Services (CS). After considering staff's recommendation for Neighborhood Commercial (LR), the applicant would like to modify the zoning request to General Commercial Services (CS) but with the following land use restrictions:

- Short-term Rental
- Automotive Rentals
- Automotive Services
- Automotive Repair Services
- Automotive Sales
- Automotive Washing
- Recycling Facility
- Equipment Repair
- Equipment Sales
- Exterminating Services
- Kennels
- Laundry Services
- Pawn Shops
- Vehicle Storage
- Limited Warehousing and Distribution
- Transitional Housing

It is our understanding that the Zoning and Platting Commission can recommend these restrictions as a Conditional Overlay.

If you have any questions or comments regarding this request, please contact our Civil Engineering Partner, Joel Wixson, P.E. - Kimley Horn & Associates, at 512-418-1771.

Sincerely,



Peter Watson
SVP, Branch Development & Project Management.

cc: Joel Wixson, Kimley-Horn & Associates
 Liz Kolepp-Mayer, First Citizens Bank
 Alex Adler, Adler Architecture LLC
 Brandon White, Kimley-Horn & Associates

EXHIBIT E



MEMORANDUM

TO: Scott Grantham, Case Manager
Planning and Zoning Department

FROM: Natalia Rodriguez, CNU-A
Scott A. James, P.E., PTOE
DSD/Land Use Review - Transportation

DATE: July 31, 2018

SUBJECT: Neighborhood Traffic Analysis for First Citizens Bank
Zoning Case # C14 – 2018 – 0044

The Land Use Review/Transportation staff has performed a Neighborhood Traffic Impact Analysis (NTA) for the above referenced case and offers the following comments.

The .4187 acre site is located at 4101 Marathon Boulevard in north Austin. The applicant is proposing to change the zoning from LO to CS to allow for the construction of a drive-up bank. Vehicular access to the site is proposed to and from Marathon Boulevard and the adjacent alley. Vehicular access is not proposed to West 41st Street. The subject property is bounded by commercial and residential development to the north, commercial development to the east, Marathon Boulevard to the west, and West 41st Street to the south.

Roadways

West 41st Street is classified as a local roadway measures 30 feet in width. The speed limit of West 41st Street, adjacent to the subject property is 25 miles per hour (MPH). There are sidewalks on the north side of E 41st Street, east of the property. The roadway is classified as a "low-comfort" bikeway.

Marathon Boulevard is classified as a local roadway and measures 30 feet in width north of West 42nd Street and up to 40 feet in width south of West 41st Street. The speed limit of Marathon Boulevard, adjacent to the subject property is 25 miles per hour (MPH). There are sidewalks on the east side of Marathon Boulevard. The roadway is classified as a "low-comfort" bikeway.

Trip Generation and Traffic Analysis

The City Council may deny an application if the neighborhood traffic analysis demonstrates that the traffic generated by a project combined with existing traffic, exceeds the desirable operating level established on a residential local or collector street in the study area.

Based on the Institute of Transportation Engineer's publication Trip Generation Manual, 10th Edition, the proposed land use (Drive In Bank) would generate up to six hundred fifty-six (656) daily trips (summarized in Table 1 below). However, the request zoning of CS would allow for different land uses, whose estimates of daily trips could be greater.

Table 1 – Trip Generation Estimates					
TRACT NUMBER	TRACT ACRES	INTENSITY	ZONING	LAND USE	TRIPS PER DAY
1	.4187	6,500 SF	CS	Drive – In Bank (ITE 912)	656
				Total*	656

*Daily trip estimate for the proposed drive in bank; not the maximum allowable by the requested zoning category.

According to the staff review, the majority of the site traffic will use the entrance from Marathon Boulevard. Table 2 presents the expected distribution of the approximately 80% of the daily trips to and from the site using the residential streets:

Table 2 – Trip Distribution Percentages		
Street	Inbound	Outbound
Marathon Boulevard	525 (80%)	525 (80%)

According to the traffic data collected during the days of June 5, 2018 to June 7, 2018, the current average daily volumes on Marathon Boulevard are 1,640 vehicles per day along the 4000 block and 999 vpd within the 4200 block. As shown in Table 3 below, the projected daily trips from the site development would increase the observed volumes on Marathon Boulevard by 13% - 32% depending upon the location.

Table 3 – Estimated increase in daily traffic volumes				
Street	Existing Traffic (VPD)	Site Traffic (VPD)	Total Traffic (VPD)	Percentage Increase
Marathon Boulevard (4000 Block)	1640	525	2165	32%
Marathon Boulevard (4200) Block)	999	131	1130	13%

According to Section 25 – 6 – 116 of the Land Development Code, neighborhood residential streets are operating at a desirable level of congestion if the daily volumes do not exceed the following thresholds:

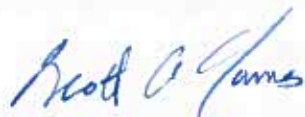
Pavement Width	Vehicles Per Day
Less than 30'	1,200
30' to less than 40'	1,800
40' or wider	4,000

Conclusions and Recommendations

The estimated number of daily trips generated by this site, in combination with the existing traffic on Marathon Boulevard exceed the threshold set forth in the LDC 25 – 6 – 116. Therefore, mitigation of the site traffic is required. Staff recommends approval of this zoning application subject to the following conditions:

- 1) Prior to the 3rd reading of City Council, the applicant shall post fiscal in the amount of \$26,082.53 and commit to reconstruction of the adjacent public alleyway (at the time of the site plan application) to City of Austin standards in order to provide improved vehicular access to and from West 41st Street and the site.
- 2) These findings are based upon an assumed intensity of a drive-in bank of approximately 6,500 SF. Development of this property should not vary from the approved uses, nor exceed the intensities and assumptions within this staff memorandum, including land uses, trip generation estimates, trip distribution, or other identified conditions, otherwise addition traffic review and/or mitigation may be required.
- 3) The findings and recommendations of this NTA memorandum remain valid until July 31, 2023, after which a revised NTA or traffic analysis may be required.

If you have any questions or require additional information, please contact me at (512) 974 – 2208.



Scott A. James, P.E., PTOE

Development Services Department/ Land Use Review Division

Exhibits

Sealed cost estimate for reconstruction of alleyway

Diagram 1000S – 4 Typical Sections Alley Pavement

DESCRIPTION	UNIT	QUANTITIES	UNIT PRICE	TOTAL AMOUNT
CONCRETE CURB AND GUTTER	LF	70	\$11.20	\$784.00
UNREINFORCED CONCRETE PER COA DETAIL 1000S-4	SY	305	\$75.00	\$22,875.00
COMPACTED SUBGRADE	SY	305	\$8.00	\$2,440.00
TOTAL PAVEMENT ITEMS				\$26,099.00

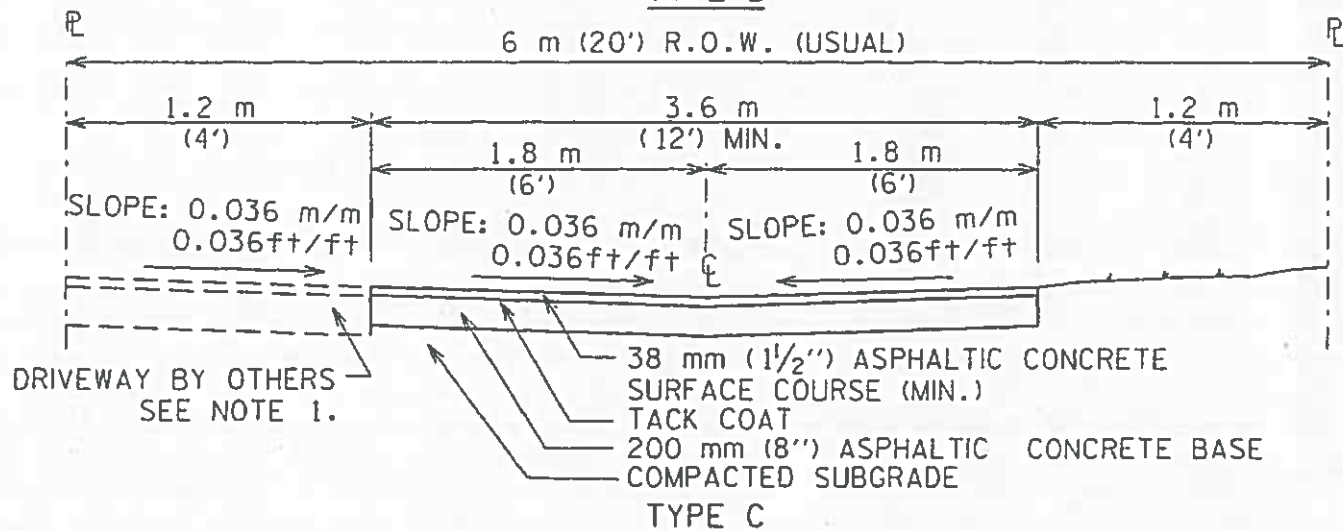
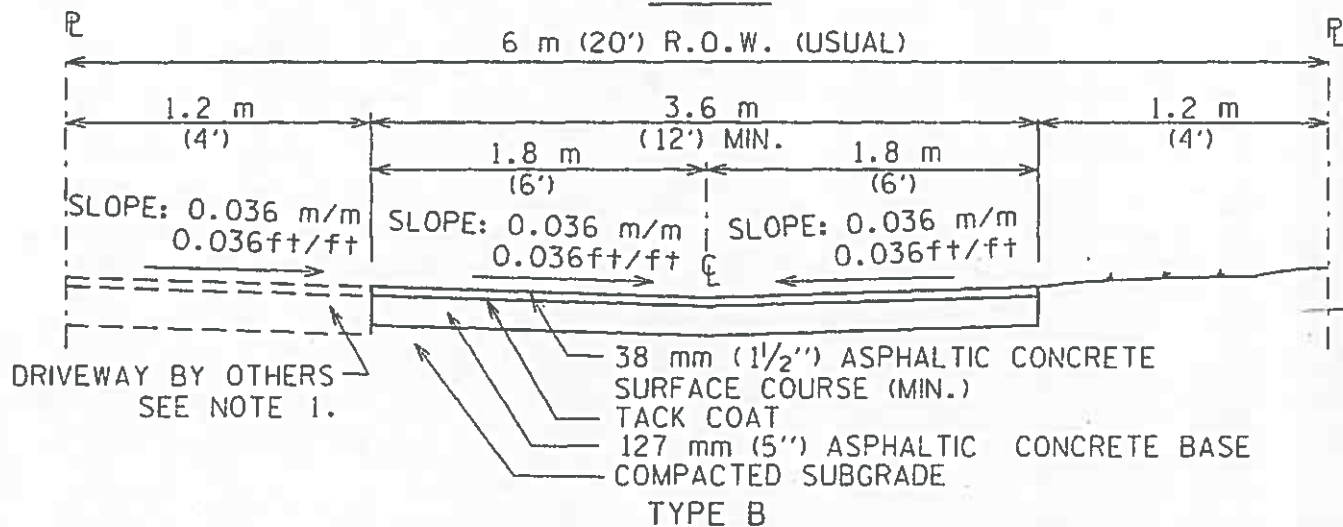
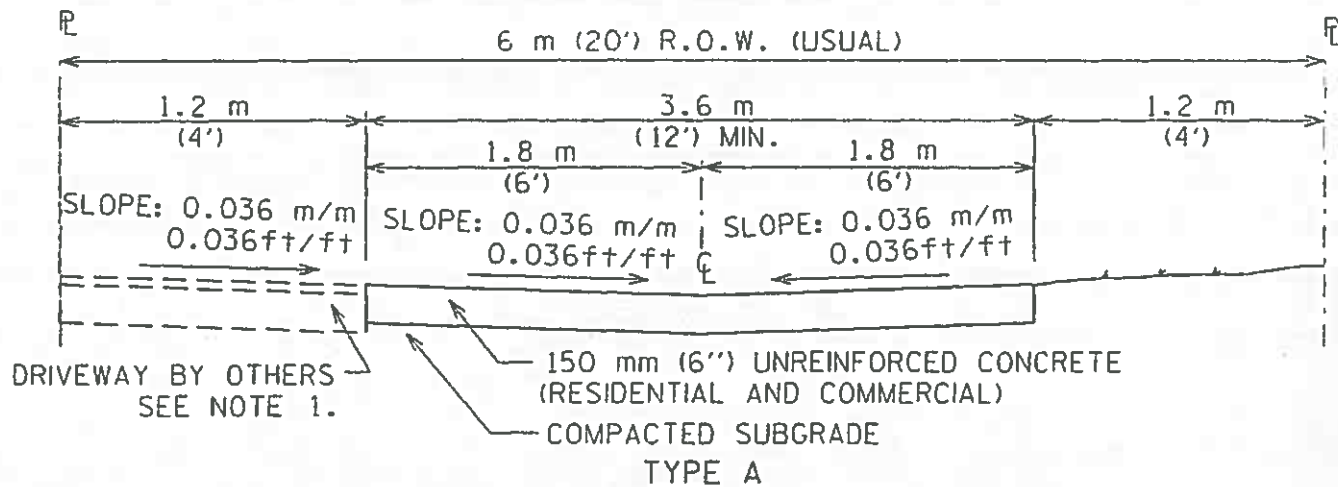
ALLEY RECONSTRUCTION ESTIMATE - FCB MARATHON

NOTE: THIS EXHIBIT WAS PREPARED WITHOUT A CURRENT FILL COMMITMENT. ADDITIONAL EASEMENTS AND RESTRICTIONS MAY BE PRESENT.

UTILITY AND APPROPRIATE RELOCATION IS NOT ANTICIPATED AT THIS TIME.

PRELIMINARY - NOT FOR PERMIT OR DESIGN

10 OF 1



GENERAL NOTES:

1. ALLEY DRIVEWAY TO BE CONSTRUCTED BY ABUTTING PROPERTY OWNER WITH PAVEMENT TYPE A, B, OR C.
2. COMMERCIAL ALLEYS SHALL BE CONST. WITH PAVEMENT TYPE A ONLY AND SHALL BE PAVED THE FULL WIDTH OF THE R.O.W.
3. PAVEMENT TYPES B AND C WILL NOT BE PERMITTED ON GRADES LESS THAN 1.5%.

CITY OF AUSTIN
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

TYPICAL SECTIONS ALLEY PAVEMENT

Luis Luvira 9/29/99
ADOPTED

THE ARCHITECT/ENGINEER ASSUMES
RESPONSIBILITY FOR APPROPRIATE USE
OF THIS STANDARD.

STANDARD NO.
1000S-4

ELECTRONICALLY RECORDED

2017166524

TRV

5

PGS

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Heritage Title Company of Austin, Inc.
401 Congress Avenue, Suite 1500
Austin, Texas 78701
Attention: Liz Tucker

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

RESTRICTIVE COVENANT AGREEMENT

STATE OF TEXAS

§

§

COUNTIES OF TRAVIS

§

This Restrictive Covenant Agreement (this "Agreement") is made and entered into as of the ~~11th~~ day of ~~October~~, 2017 (the "Effective Date"), by FIRST-CITIZENS BANK & TRUST COMPANY, a North Carolina corporation (together with its successors and/or assigns, the "Declarant"), having an address of P.O. Box 27131, Mail Code DAC41, Raleigh, NC 27611-7131.

RECITALS:

A. At the time of recordation of this Agreement, Declarant shall be the owner of real property described as Lots 18, 19, and 20, Block 3, Lee's Hill, a subdivision of Travis County, Texas, according to the map or plat thereof, recorded in Volume 2, Page 244 of the Plat Records of Travis County, Texas, and that adjacent portion of vacated Marathon Boulevard by Ordinance recorded in Volume 3905, Page 1197 of the Deed Records of Travis County, Texas (the "Land").

B. To ensure that development to occur on the Land will be harmonious with certain adjoining tracts of real property, and to accommodate the concerns of the owners of such adjoining tracts, Declarant wants to place restrictions on the Land that will encumber the Land from the period commencing on the Effective Date and automatically terminating upon the earlier to occur of (such period, the "Restriction Period"): (x) conveyance by the Templeton Irrevocable Trust of real property described as Lots 11 and 12, Block 4, plus vacated street area, Lee's Hill Addition, a subdivision of Travis County, Texas, according to the map or plat thereof, recorded in Volume 2, Page 244 of the Plat Records of Travis County, Texas, or (y) the date of death of the last survivor of Carl Templeton and Nina Templeton, a married couple having an address of 4110 Marathon Blvd., Austin, Texas, all as expressly set forth below in this Agreement. The Templeton Irrevocable Trust, Carl Templeton and Nina Templeton are collectively referred to herein as the "Benefited Parties"). The recordation in the public records of Travis County, Texas, of a deed evidencing a conveyance under subsection (x) above or death

certificates evidencing the date of death under subsection (y) above shall be conclusive proof of the termination of this restriction and Agreement.

NOW, THEREFORE, for cash and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Declarant states as follows:

1. **Recitals.** The recitals set forth above are incorporated herein by reference as if fully set forth herein.

2. **Restrictive Covenant.** Declarant, for itself and its successors and assigns, declares that, during the Restriction Period only, the Land will be utilized only in a manner that complies with the City of Austin's Limited Office (LO) zoning designation as such zoning is in effect as of the date of this Agreement, or in a manner that allows the Property to be utilized as a retail branch bank site upon re-zoning to a designation of General Commercial Services ("CS") or other proper zoning designation.

3. **Conveyance and Assignment.** Upon any person or entity's sale and conveyance of the Land, the person or entity acquiring the Land shall take the Land subject to this Agreement and to the restrictions set forth herein, and the entity who has conveyed the Land shall be released from liability and obligations under this Agreement accruing after such conveyance.

4. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

5. **Successors and Assigns; No Third Party Beneficiaries.** This Agreement shall be binding upon Declarant, and this Agreement will inure to the benefit of the Benefited Parties (but not to the successors and/or assigns of the Benefited Parties). The provisions of this Agreement are for the exclusive benefit of Declarant and the Benefited Parties and not for the benefit of any third party or any heirs of the Benefited Parties, and the provisions of this Agreement are not intended to create or constitute any party as a third party beneficiary hereof.

6. **Amendments.** This Agreement may only be amended by a written agreement executed by the Declarant and acknowledged by the trustee of the Templeton Irrevocable Trust and all other living Benefited Parties.

7. **Covenants Running with the Land.** Not in limitation of any other provision in this Agreement, the duties, obligations, covenants, and agreements set forth in this Agreement shall be covenants running with the land and shall be binding upon any future owner of any of the Land, subject in all respects to the limitations set forth in this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Declarant has duly executed and delivered this Agreement as of the day and year first above written.

DECLARANT:

FIRST-CITIZENS BANK & TRUST
COMPANY, a North Carolina corporation

By: 

Name: Peter Watson

Title: Senior Vice President, Branch
Development & Portfolio
Management

(Corporate Seal)

STATE OF NORTH CAROLINA

§

COUNTY OF WAKE

§
§

This instrument was acknowledged before me, the undersigned authority, this 16
day of October, 2017, by Peter Watson, as Senior Vice President, Branch Development &
Portfolio Management of FIRST-CITIZENS BANK & TRUST COMPANY, a North Carolina
corporation, on behalf of said Corporation.





Notary Public, State of North Carolina

Jennea D Lulich

Acknowledged by the Benefited Party:

TEMPLETON IRREVOCABLE TRUST

By Julie L. Drake, Trustee
 Name JULIE L. DRAKE

Trustee of the Templeton Irrevocable Trust,
 dated May 20, 2013, recorded in
N/A [recording data of trust]
 of the real property records of
Travis County, Texas

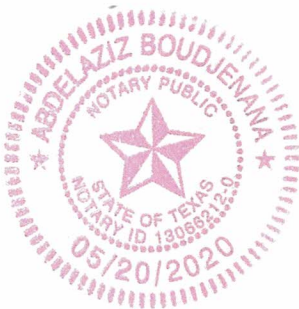
STATE OF Texas

COUNTY OF Travis

This instrument was acknowledged before me on 09-26-2017 by
Julie Lynn Drake [name of trustee], as trustee of TEMPLETON IRREVOCABLE
 TRUST.

[SEAL]

Abdelaziz Boudjenana
 Notary Public in and for the State of _____
 My commission expires: 05-20-2020



[signatures continue on following page]

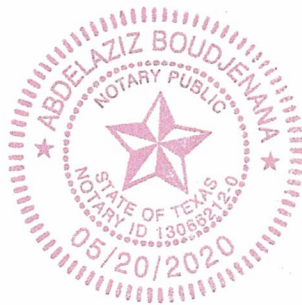
Carl Templeton
CARL TEMPLETON

STATE OF Texas

COUNTY OF Travis

This instrument was acknowledged before me on 09-26-2017 by Carl Templeton.

[SEAL]



Abdelaziz Boudjenana
Notary Public in and for the State of Texas
My commission expires: 05-20-2020

Nina Templeton
NINA TEMPLETON

STATE OF Texas

COUNTY OF Travis

This instrument was acknowledged before me on 09-26-2017 by Nina Templeton.

[SEAL]



Abdelaziz Boudjenana
Notary Public in and for the State of Texas
My commission expires: 05-20-2020