

**ZONING CHANGE / RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET**

CASE: C14-2019-0003 / C14-85-288.8(RCA5) – DISTRICT: 8  
Lantana, Block P, Lot 3

ZONING FROM: GR-NP for Tract 1; CS-1-CO-NP for Tract 2

ZONING TO: GR-MU-NP for Tract 1 (35.371 acres);  
CS-1-MU-CO-NP for Tract 2 (0.279 acres)

ADDRESS: 7415 Southwest Parkway TOTAL SITE AREA: 35.67 acres

PROPERTY OWNER: Lantana Place, L.L.C. AGENT: LJA Engineering, Inc.  
(Erin D. Pickens) (Paul J. Viktorin, P.E.)

CASE MANAGER: Wendy Rhoades (512-974-7719, [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov))

STAFF RECOMMENDATION:

**The Staff recommendation is to:**

**grant community commercial – mixed use – neighborhood plan (GR-MU-NP) combining district zoning for Tract 1 and commercial-liquor sales – mixed use – conditional overlay – neighborhood plan (CS-1-MU-CO-NP) combining district zoning for Tract 2. On Tract 2, the Conditional Overlay is to limit the maximum floor-to-area ratio is 1 : 1 and prohibit the following uses on the Property: agricultural sales & services, commercial blood plasma center, custom manufacturing, electronic prototype assembly, exterminating services, plant nursery and veterinary services, and**

**amend the Restrictive Covenant to remove the provision establishing the maximum net leasable square feet of buildable space or maximum floor-to-area ratio (FAR) that can be developed on the Property. For a summary of the basis of Staff's recommendation, see case manager comments on Page 2.**

PLANNING COMMISSION ACTION / RECOMMENDATION:

**May 12, 2020:**

April 28, 2020: *CONTINUED TO MAY 12, 2020*

*[R. SCHNEIDER; P. HOWARD – 2<sup>ND</sup>] (12-0) C. LLANES PULIDO – LEFT EARLY*

April 14, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO APRIL 28, 2020*

*[R. SCHNEIDER; C. KENNY – 2<sup>ND</sup>] (12-0) C. LLANES PULIDO – ABSENT*

March 10, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO APRIL 14, 2020*

*[J. SHIEH; R. SCHNEIDER – 2<sup>ND</sup>] (11-0) A. AZHAR, P. HOWARD – ABSENT*

February 25, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO MARCH 10, 2020*

*[R. SCHNEIDER; C. KENNY – 2<sup>ND</sup>] (12-0) J. SHIEH – ABSENT*

January 28, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO FEBRUARY 25, 2020*

*[J. THOMPSON; A. AZHAR – 2<sup>ND</sup>] (10-0) C. HEMPEL – RECUSED; C. LLANES PULIDO, P. SEEGER – ABSENT*

December 17, 2019: *APPROVED A POSTPONEMENT REQUEST BY THE STAFF TO JANUARY 28, 2020, BY CONSENT*

*[P. HOWARD; Y. FLORES – 2<sup>ND</sup>] (10-0) G. ANDERSON, C. LLANES PULIDO, T. SHAW – ABSENT*

June 25, 2019: *APPROVED AN INDEFINITE POSTPONEMENT REQUEST BY THE STAFF, BY CONSENT*

*[P. HOWARD; C. KENNY – 2<sup>ND</sup>] (11-0) P. SEEGER, J. SHIEH – ABSENT*

CITY COUNCIL ACTION:

**May 21, 2020:**

May 7, 2020:

April 23, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO MAY 7, 2020. VOTE: 11-0*

March 12, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO APRIL 23, 2020. VOTE: 9-0, MAYOR ADLER; COUNCIL MEMBER HARPER-MADISON – OFF THE DAIS*

February 6, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO MARCH 12, 2020. VOTE: 10-0, COUNCIL MEMBER CASAR – OFF THE DAIS*

ORDINANCE NUMBER:

ISSUES:

A related project consent agreement item has been placed on the agenda to address residential use for the property, and under what circumstances it could occur. On March 4, 2020, the project consent agreement completed review by the Environmental Commission.

CASE MANAGER COMMENTS:

The rezoning area consists of a platted lot that contains a commercial center with office, financial services, retail, restaurant uses and a movie theater, and is located at the southwest corner of Southwest Parkway and West William Cannon Drive. The property has

community commercial – neighborhood plan (GR-NP) combining district zoning with the exception of one 12,138 square foot single story building that has commercial-liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) district zoning by a 2018 case. There is a landscaped median dividing the east and west lanes of Southwest Parkway, and the north and south lanes of William Cannon; median breaks allow for full turning movements on both roadways. There is undeveloped land on the north side of Southwest Parkway (DR; GO), undeveloped land and an AMD facility to the east (GR-NP), undeveloped land and apartments to the south (CS-NP; P-NP) and offices to the west (CS-NP). ***Please refer to Exhibits A (Zoning Map), A-1 (Aerial Exhibit), B (Recorded Plat) and C (Approved Site Plan).***

The Applicant requests the addition of the mixed use (-MU) combining district to both tracts, as the first step in developing up to 400 multifamily residential units on the undeveloped southeast portion of the property. On Tract 2, the -CO for the list of prohibited uses is not proposed to change. The Applicant also requests an amendment of the 1986-87 Restrictive Covenant to remove the provision establishing the maximum net leasable square feet of buildable space or maximum floor-to-area ratio (FAR) that can be developed on the Property, because these terms apply to commercial rather than multifamily residence use. All other provisions of the Restrictive Covenant would remain intact. ***Please refer to Exhibit D (1986 Restrictive Covenant and 1987 Modification).***

#### BASIS OF RECOMMENDATION:

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

*For Tract 1:* The proposed community commercial (GR) district is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major trafficways.

*For Tract 2:* The commercial – liquor sales (CS-1) zoning district is intended for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use. The Conditional Overlay (CO) combining district may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties.

*For Tracts 1 and 2:* The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development. The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

2. *Zoning changes should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

Staff supports the Applicant's request based on the presence of supporting office and commercial developments within and in proximity to the property, and vehicular access to two arterial streets.

If Austin is to grow and evolve as a compact and connected city, as envisioned in the adopted Imagine Austin Comprehensive Plan (IACP), then development that provides additional housing units is necessary. One of the primary mechanisms for achieving compact growth will be development, or redevelopment, of larger sized properties such as this into higher density residential.

In the broader city-wide context, adding a –MU overlay to office and commercial base zoning districts is a reasonable option for multiple-acre parcels developed or redeveloped for office / commercial / residential purposes.

In conclusion, Staff believes the proposed GR-MU-NP and CS-1-MU-NP zonings and multifamily development is compatible with adjacent and nearby commercial and apartment developments. The proposed amendment to the Restrictive Covenant is acceptable given that the proposed multifamily development on the Property will occur under the terms of the related Project Consent Agreement.

#### EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR-NP; CS-1-NP	Offices, financial services, retail, restaurant, theater; Undeveloped
<i>North</i>	DR; RR	Undeveloped; Single family residences on large lots
<i>South</i>	CS-NP; P-NP; MF-2-NP; GO-NP	Offices; Undeveloped; Multifamily residences
<i>East</i>	GR-NP	Offices
<i>West</i>	CS-NP	Offices

NEIGHBORHOOD PLANNING AREA: Oak Hill Combined (West Oak Hill)

TIA: Is not required

WATERSHED: Williamson Creek – Barton Springs Zone – Contributing Zone

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: Yes,  
Southwest Parkway (Low Intensity)

#### SCHOOLS:

Oak Hill Elementary School

Small Middle School

Austin High School

#### NEIGHBORHOOD ORGANIZATIONS:

298 – Oak Hill Association of Neighborhoods

605 – City of Rollingwood

742 – Austin Independent School District



779 – Oak Hill Neighborhood Plan – COA Liaison 943 – Save Our Springs Alliance  
 1166 – Oak Hill Neighborhood Plan Contact Team  
 1228 – Sierra Group, Austin Regional Group  
 1318 – Covered Bridge Property Owners Association, Inc. 1363 – SEL Texas  
 1470 – Aviara HOA 1528 – Bike Austin  
 1530 – Friends of Austin Neighborhoods  
 1596 – TNR BCP – Travis County Natural Resources  
 1616 – Neighborhood Empowerment Foundation  
 1714 – East Oak Hill Neighborhood Association

#### AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-87-145 – W William Cannon Dr at Southwest Pkwy – Lantana (10 residential tracts on 229.49 acres)	MF-1 to MF-2 for Tract C (25.31 acres)	To Grant MF-2	Apvd MF-2 (08-16-1990).

#### RELATED CASES:

On August 14, 1986, GR district zoning was approved for the subject property (C14-85-288.8).

The rezoning area is all of Lot 3, Block P, Lantana Phase 1, Section 1, a subdivision recorded on May 11, 2000 (C8-84-102.03.1A). An administrative site plan which coincides with the rezoning area boundary was approved on April 30, 2015 (SP-2014-0262C – Lantana Block P, Lot 3 – expiration April 30, 2022). The permit issued on April 30, 2015 is for a 4-story professional office building, a 3-story medical office building, a 70,000 square foot hotel, a 46,000 square foot theater, and five buildings containing financial services, retail, and restaurant uses. The Floor-to-Area ratio shown on the approved site plan for the overall property is 0.2 : 1. The area of the approved site plan proposed for multifamily residential is known as Phase 5 and identified for General Office and Medical Office uses.

On June 28, 2018, Council approved CS-1-CO-NP zoning for a 0.279 acre) footprint within the property (12,138 square feet – Tract 2). The –CO limits the FAR to 1:1 and prohibits agricultural sales & services, commercial blood plasma center, custom manufacturing, electronic prototype assembly, exterminating services, plant nursery and veterinary services (C14-2018-0005). ***Please refer to Exhibit E (2018 Rezoning Ordinance – Tract 2).*** A previous rezoning case for GR-MU-NP was filed in late 2015, but withdrawn prior to Planning Commission consideration (C14-2015-0134).

The rezoning area is within the West Oak Hill Neighborhood Planning Area. The property is designated as Mixed Use on the Future Land Use Map, and the proposed rezoning to add the MU overlay does not require a plan amendment. An –NP combining district was added as

part of the Neighborhood Plan Rezonings and was approved by Council in December 2008 (C14-2008-0125 – Ordinance No. 20081211-097).

EXISTING STREET CHARACTERISTICS:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
West William Cannon Drive	140 feet	115 feet (with median)	Level 4 (Arterial)	Yes	Yes, Shared lane	No
Southwest Parkway	120 feet	95 feet (with median)	Level 4 (Arterial)	Yes	Yes, wide shoulder	No

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a protected bike lane is required for Southwest Parkway and William Cannon Drive. The Corridor Planning Office (CPO) plans to build the above-referenced protected bike lane for all ages and abilities.

OTHER STAFF COMMENTS:

Comprehensive Planning

This property is located on the southwest corner of Southwest Parkway and W. William Cannon Drive on a property that is approximately 35.67 acres in size but this case only concerns a portion of the property that is not planned for commercial and office development. The case is also located within the boundaries of the Oak Hill Combined Neighborhood Planning Area. Surrounding land uses includes undeveloped land to the north; undeveloped land and a large apartment complex to the south; undeveloped land and AMD to the east; and undeveloped land and a large office complex to the west. This project is part of Lantana Place, which is a planned retail and mixed use development. The proposed use is a 600 unit multifamily apartment complex on the undeveloped south portion of the site. The plans as per the developer:

**Connectivity and Mobility:** Since last year, public sidewalks have been installed along this portion of Southwest Parkway, and public sidewalks and CapMetro transit stop are preexisting along William Cannon Drive. The Walkscore for this site is 3/100, **Car Dependent**, meaning most errands require a car. Southwest Parkway is a busy auto-centric roadway but this area is gradually adding in pedestrian infrastructure. This portion of William Cannon also acts as a minor highway and the mobility and connectivity options offered currently offer this area are above average compared to other properties along Southwest Parkway because of the new public sidewalks and nearby Cap Metro transit stop.

**Oak Hill Combined Neighborhood Plan (OHCNP)**

The Oak Hill Combined Neighborhood Plan Future Land Use Map (FLUM) designates this portion of Southwest Parkway as ‘Mixed Use’ which is intended for a mix of office, retail, and residential uses. Zones GR-MU and CS-1 are permitted under this FLUM category. The following text, goals, objectives and recommendations are taken from the OHCNP and are relevant to this case:

**Goal 6.A.** Provide opportunities for high-quality new development and redevelopment. (p 66)

**Objective 6A.1:** Ensure quality of new construction and renovations. (p 66)

**Goal 6.C:** Create a mix of uses in existing corridors of commercial development that will provide a diversity of local services convenient to neighborhoods and establish commercial “nodes” (concentrated) (p 67)

#### **OHCNP Text (p. 79)**

Southwest Parkway presents its own set of unique challenges when making land use recommendations. Within the planning area, a large portion of the road is already covered by restrictive covenants or conditional overlays or is outside of the City’s zoning jurisdiction. Most of the land use recommendations pertain to property located on the south side of the roadway.

· William Cannon Drive at Southwest Parkway — Mixed Use is recommended for this area because it is surrounded by a mix of offices and multifamily buildings. **With access to both Southwest Parkway and William Cannon, this area is appropriate for a mix of office, retail, and residential uses. Additionally, current residences and offices in the surrounding area could be served by community-level retail here.** (p 79)

#### **Conclusion:**

The Oak Hill Combined Neighborhood Plan’s FLUM and policies and text appears to support a mix of office, commercial, and residential uses in this portion of the planning area.

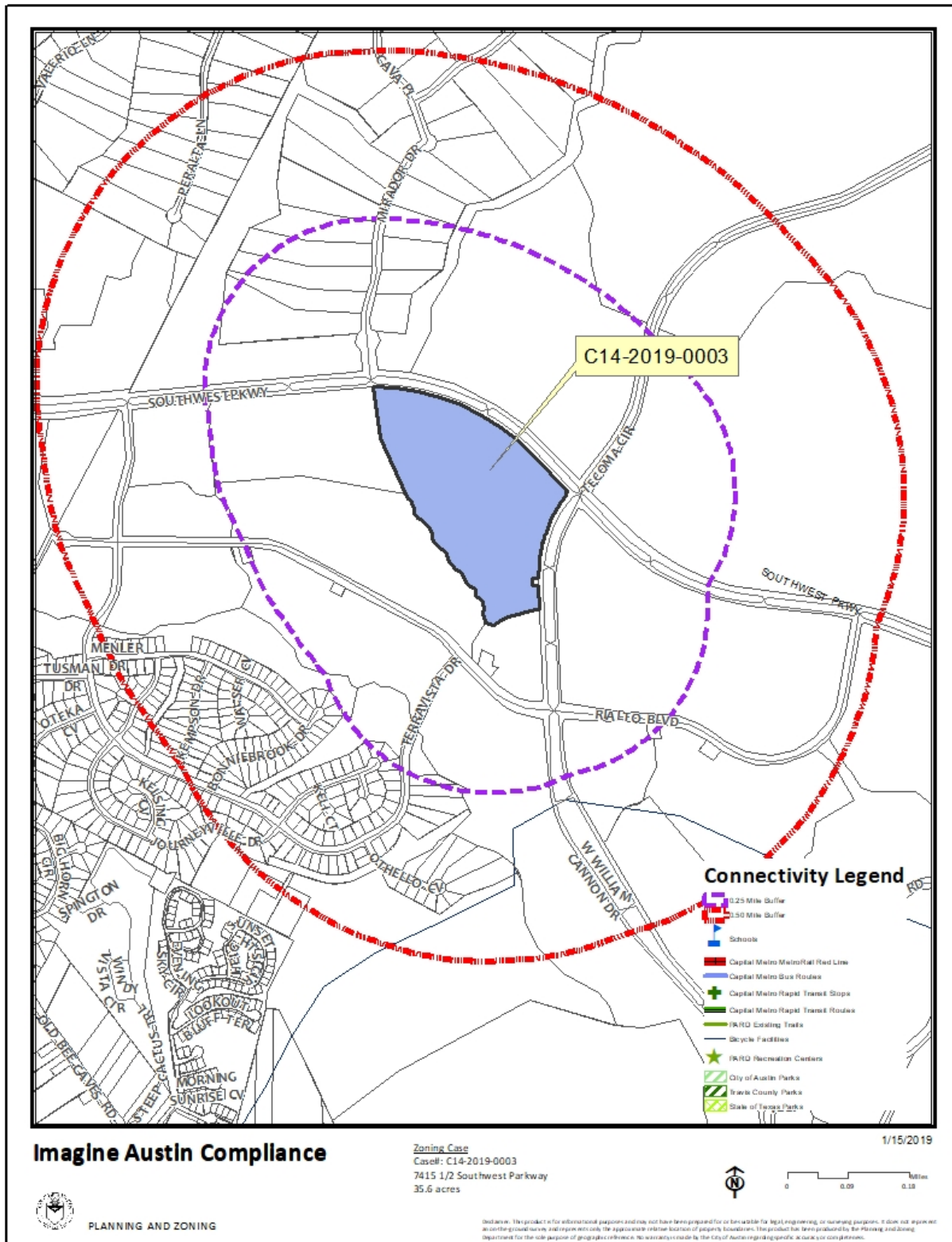
#### **Imagine Austin**

While this portion of Southwest Parkway and William Cannon are not situated along an Activity Corridor or Center, this area is developing into a regional commercial/mixed use node, which includes multifamily, large office complexes and commercial uses that are situated along a highly traveled thoroughfare.

The following Imagine Austin Comprehensive Plan policies are applicable to this case:

- **LUT P3.** Promote development in compact centers, communities, or along corridors that are connected by roads and transit, are designed to encourage walking and bicycling, and reduce healthcare, housing and transportation costs.
- **HN P1.** Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin’s diverse population.

Based on existing and developing commercial, multifamily, mixed use and office development being built in the area, and the project support the text and policies of the OHCNP, this project appears to support the Imagine Austin Comprehensive Plan.



### Environmental

This site is located over the Edwards Aquifer Contributing Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone.

According to floodplain maps there is no floodplain within the rezoning area. Stormwater flows to a water quality pond near the southeast property line.

### Impervious Cover

Development of the property is subject to the terms of a Settlement Agreement between the City and Stratus Properties Inc. dated July 10, 2001 and allows for up to 60% net site area (32.234 acres). The amount of impervious cover shown on the approved site plan is 17.45 acres (54.14%), again, based on a net site area of 32.234 acres. Rezoning will not result in an increase in the amount of impervious cover.

### Site Plan and Compatibility Standards

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.

FYI – A conditional use permit for the cocktail lounge is required prior to establishing the use.

For a site development permit the following rules may be applicable:

This site is located within 1,000 feet of Southwest Parkway and within a Hill Country Roadway Corridor. The site is located within the low intensity zone of Southwest Parkway.

Except for clearing necessary to provide utilities or site access, a 100-foot vegetative buffer will be required along Southwest Parkway. At least 40% of the site (excluding dedicated right-of-way) must be left in a natural state. The allowable height is as follows: Within 200 feet of Southwest Parkway the maximum height is 28 feet, and beyond 200 feet the maximum height is the lesser of the height permitted by the zoning or the site plan approved for the property; or 60 feet.

Transportation

The site is subject to the approved traffic impact analysis (TIA) with site plan case SP-2014-0262C. A TIA Waiver letter from a Certified Engineer (Traffic Engineer) was provided and shows the approved trips and land uses, how many trips have been used, how many trips are left, etc. The TIA will need to be amended with the update to the site plan application.

Austin Water Utility

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

## INDEX OF EXHIBITS TO FOLLOW

A: Zoning Map

A-1: Aerial Map

B: Recorded Plat

C: Approved Site Plan

D: 1986 Restrictive Covenant and 1987 Modification of Restrictive Covenant

E: 2018 Rezoning Ordinance (Tract 2)

Questions and Answers



B-03

11 of 51

DR

RR

MIRADOR DR

92-0116 DR  
SP92-246C

SOUTHWEST PKWY

TRACT 2

85-288 RC

SP06-0757C

92-0142

SP-06-0061CS

CS-NP

FAST FOOD

GO

FAST FOOD

92-0116

RESTURANT

TECOMA CIR

GO

TRACT 1

GR-NP

UNDEV

NP-2016-0025.02

RIALTO BLVD

MF-2-NP

UNDEV

87-145

92-0142

P-NP

UNDEV

94-0145

GR-NP

C14-2008-0129

SF-2-NP

92-0142

85-288.8

SPC-92-0286

P-NP

GO-NP

CMP88-0011  
SP89-0045C

GO-NP

C14-85-288.8(RC) C14-2016-0011

W WILLIAM CANNON DR

TERRAVISTA DR

SP-2-NP

SP-2-NP

## ZONING

Exhibit A

ZONING CASE#: C14-2019-0003

N



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

1" = 400'

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.



Created: 1/9/2019





N



1" = 400'



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY



CREEK BUFFER

## LANTANA BLOCK P, LOT 3

Exhibit A - 1

ZONING CASE#: C14-2019-0003

LOCATION: 7415 SOUTHWEST PARKWAY.

SUBJECT AREA: 35.67 ACRES

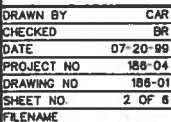
GRID: C21

MANAGER: WENDY RHOADES

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





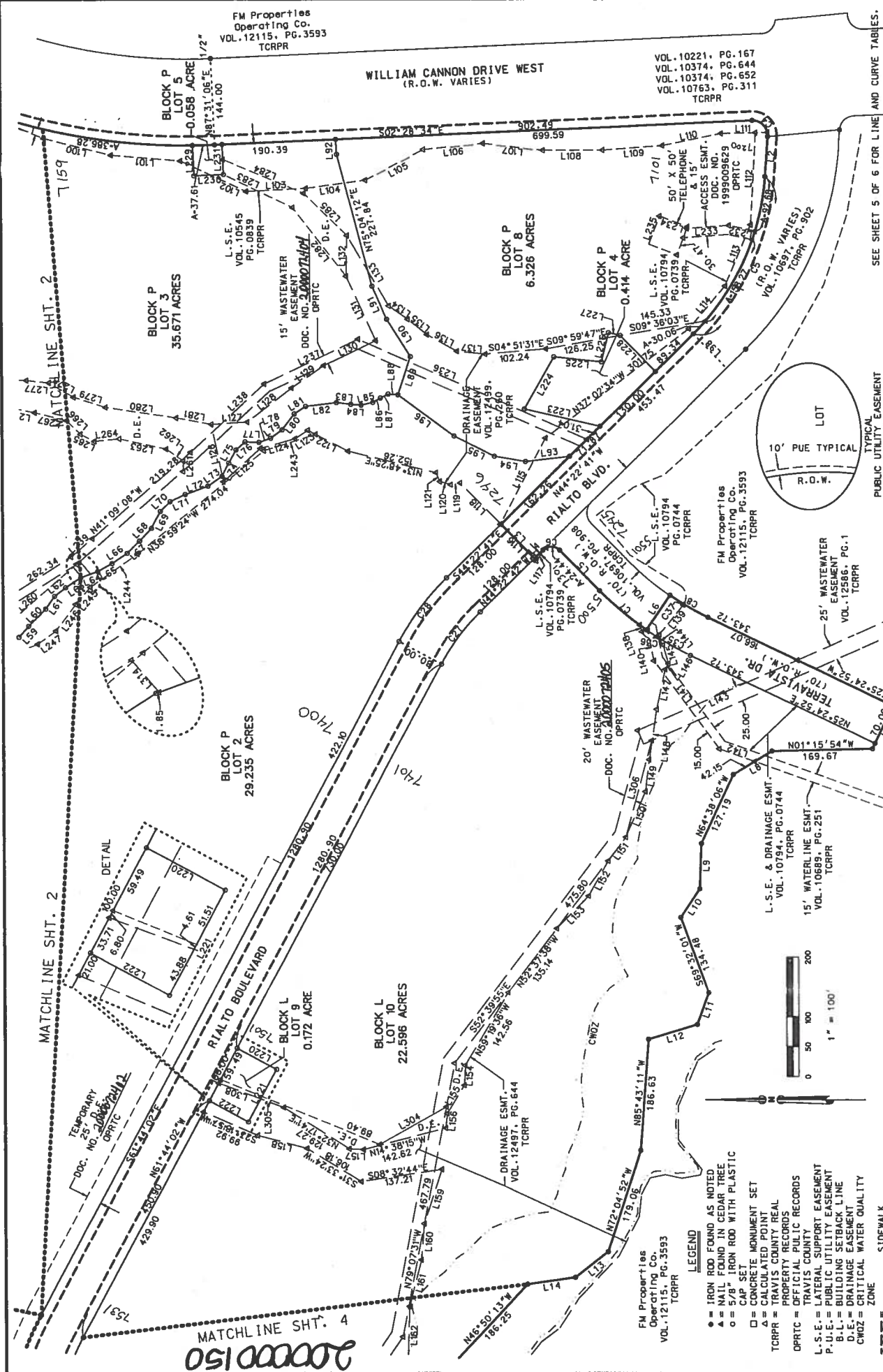


8718 SOUTHWEST PARKWAY  
P.O. BOX 92768  
AUSTIN, TEXAS 78709-2768  
PHONE (512) 301-9398  
FAX (512) 301-9395  
lsurvey@flash.net

LANTANA  
PHASE 1, SECTION 2

[illegible]

SEE SHEET 5 OF 6 FOR LINE AND CURVE TABLES.



SEE SHEET 5 OF 6 FOR LINE AND CURVE TABLES.

**TYPICAL  
PUBLIC UTILITY EASEMENT**

RAMSEY LAND SURVEYING, L.L.C.

8718 SOUTHWEST PARKWAY  
P.O. BOX 92768  
AUSTIN, TEXAS 78709-2768  
PHONE (512) 301-9398  
FAX (512) 301-9395  
survey@flash.net

LANTANA  
PHASE 1, SECT

## PHASE 1, SECTION 2

DRAWN BY	CA
CHECKED	BI
DATE	07-20-9
PROJECT NO	186-0
DRAWING NO	186-0
SHEET NO.	3 OF
FILENAME	

PHOTOGRAPHIC MILLAR





C14-85-288.8

GR(1)

4 12 3097

RESTRICTIVE COVENANT

THE STATE OF TEXAS §  
 COUNTY OF TRAVIS §

177195

11.00 RTEA  
09/22/86

WHEREAS, Realtex Funding Corporation, a Texas corporation ("Realtex") is the owner of approximately 39.35 acres of land situated in Travis County, Texas, more fully described by metes and bounds on Exhibit "A," attached to and incorporated into this document for all purposes ("Property"); and

WHEREAS, the City of Austin and Realtex have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth this agreement in writing;

NOW, THEREFORE, Realtex, for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt and sufficiency of which is hereby acknowledged, does hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding upon Realtex, its successors and assigns, as follows, to wit:

1. A maximum of 325,000 net leasable square feet of buildable space can be developed on the Property or a maximum Floor to Area Ratio of 0.207 computed as specified in Chapter 13-2A of the Code of the City of Austin of 1981 as amended from time to time.
2. A maximum of sixty-five percent (65%) of the Property may be covered with impervious material.
3. No structure shall be erected on the Property until a site plan has been submitted and approved by the City of Austin.
4. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or

REAL PROPERTY RECORDS  
 Travis County, Texas

09888 0990

EXHIBIT D  
 1986  
 RESTRICTIVE  
 COVENANT  
 AND  
 1987  
 MODIFICATION

covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

5. If any part or provision of this agreement or covenant herein contained shall be 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 force and effect.

6. The failure at any time to enforce any agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

7. 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, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the Property at the time of such modification, amendment or termination.

EXECUTED this 31 day of July, 1986.

REALTEX FUNDING CORPORATION,

By: [Signature]

Its: [Signature]

THE STATE OF TEXAS §  
Harris §  
 COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 31 day of July, 1986, by [Signature] of Realtex Funding Corporation, a Texas corporation, on behalf of said corporation.

NOTARY SEAL

[Signature]  
 Notary Public, State of Texas

Name Printed: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

KAREN LAUTNER  
 Notary Public in and for the State of Texas  
 My Commission Expires June 30, 1997

11-686.24

4 28 0192

GR(1)

MODIFICATION OF RESTRICTIVE COVENANT

C-14-85 2289.8

THE STATE OF TEXAS §  
 COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Realtex Funding Corp., a Texas corporation ("Declarant"), has filed that certain restrictive covenant of record in Volume 9888, Page 990, Real Property Records of Travis County, Texas ("Restrictive Covenant") which imposes certain covenants, conditions, and restrictions upon that certain tract of land, located in Travis County, Texas, more fully described in Exhibit "A," attached to and incorporated into this document by reference ("Property"); and

WHEREAS, the Restrictive Covenant provides that it may be modified by the joint action of both (i) the majority of the members of the City Council of the City of Austin, Texas ("Austin"), and (ii) the then current owners of the Property encumbered by the Restrictive Covenant; and

WHEREAS, by resolution dated April 16, 1987, number E.1., by majority vote of its City Council, Austin agreed to amend the Restrictive Covenant in the manner set forth below; and

WHEREAS, the Declarant is the sole and current owner of the Property; and

WHEREAS, Austin, acting by and through a majority of its City Council members, and Declarant, desire to modify the Restrictive Covenant to more accurately reflect the true and actual alignment of William Cannon Boulevard, a major arterial roadway transversing or abutting the Property.

NOW, THEREFORE, for and in consideration of the mutual benefits to Declarant and Austin, as well as to all future owners of the Property, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the undersigned hereby declare that the Restrictive Covenant is modified as follows:

1. The first paragraph of the Restrictive Covenant, which currently reads as follows:

PROPERTY RECORDS  
 Travis County, Texas

10417 10010



WHEREAS, Realtex Funding Corporation, a Texas corporation ("Realtex") is the owner of approximately 39.35 acres of land situated in Travis County, Texas, more fully described by metes and bounds on Exhibit "A," attached to and incorporated into this document for all purposes ("Property"); and,

together with the metes and bounds description referenced in that paragraph, are terminated in their entirety, and from this date forward shall be considered to have been deleted, withdrawn, and excluded from the Restrictive Covenant, and replaced with the following paragraph ("Amended Paragraph"):

WHEREAS, Realtex Funding Corp., a Texas corporation ("Realtex") is the owner of approximately 39.22 acres of land, situated in Travis County, Texas, more fully described by metes and bounds on Exhibit "A," attached to and incorporated into this document for all purposes ("Property"); and,

together the the metes and bounds description referenced in the Amended Paragraph, which metes and bounds description is attached to and incorporated into this document as Exhibit "B."

2. The fourth paragraph of the Restrictive Covenant, which currently reads as follows:

1. A maximum of 325,000 net leasable square feet of buildable space can be developed on the Property or a maximum Floor to Area Ratio of 0.207 computed as specified in Chapter 13-2A of the Code of the City of Austin of 1981 as amended from time to time

is terminated in its entirety, and from this date forward shall be considered to have been deleted, withdrawn, and excluded from the Restrictive Covenant, and replaced with the following paragraph:

1. A maximum of 325,000 net leasable square feet of buildable space can be developed on the Property.

In all other respects, the Restrictive Covenant is hereby ratified and confirmed.

This instrument is executed by C. Peyton Collins, Attorney-in-Fact for Realtex Funding Corp., pursuant to that one certain Power of Attorney, attached as Exhibit "C," recorded in the Real Property Records of Travis County at Volume 9978, Page 551, and incorporated into this instrument by reference.

EXECUTED this 8 day of April, 1987.

REALTEX FUNDING CORP., a Texas corporation

By: [Signature]  
C. Peyton Collins, Attorney-in-Fact

CITY OF AUSTIN, a municipality in the State of Texas

By: [Signature]  
Name: John L. Ware  
(Print)

Its: Assistant City Manager

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

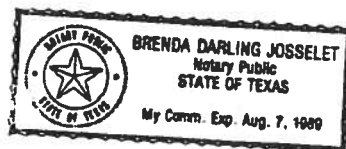
This instrument was acknowledged before me on the 8 day of April, 1987, by C. Peyton Collins, Attorney-in-Fact of Realtek Funding Corp., a Texas corporation, on behalf of said corporation.

[Signature]  
Notary Public, State of Texas  
Name Printed: Kimberly Johnson  
Commission Expires: 9-4-90

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

NOTARY SEAL

This instrument was acknowledged before me on the 30 day of June, 1989, by John L. Ware, Assistant City Manager of the City of Austin, a municipality in the State of Texas, on behalf of said municipality.



[Signature]  
Notary Public, State of Texas  
Name Printed: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

11-1286.09a

**ORDINANCE NO. 20180628-105**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 7415 SOUTHWEST PARKWAY IN THE WEST OAK HILL NEIGHBORHOOD PLAN AREA FROM COMMUNITY COMMERCIAL-NEIGHBORHOOD PLAN (GR-NP) COMBINING DISTRICT TO COMMERCIAL LIQUOR SALES-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (CS-1-CO-NP) COMBINING DISTRICT.**

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

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from community commercial-neighborhood plan (GR-NP) combining district to commercial liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district on the property described in Zoning Case No. C14-2018-0005, on file at the Planning and Zoning Department, as follows:

0.279 of an acre (12,138 square feet) of land situated in the John D. McAllister Survey No. 71, Abstract No. 561, in Travis County, Texas, being out of Lot 3, Block P, Lantana Phase 1, Section 2, a subdivision whose plat is recorded in Document No. 200000150 of the Official Public Records of Travis County, Texas, and also out of Retail Unit A-2, Declaration of Condominium Regime for Lantana Place, as recorded in Document No. 2017067525 of the said Official Public Records, said 0.279 acre tract more particularly described by metes and bounds in **Exhibit "A"** incorporated into this ordinance (the "Property"),

locally known as 7415 Southwest Parkway in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "B"**.

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

A. The following uses are prohibited uses for the Property:

Agricultural sales and services  
Custom manufacturing  
Exterminating services  
Veterinary services

Commercial blood plasma center  
Electronic prototype assembly  
Plant nursery  
Outdoor entertainment

B. Maximum floor-to-area ratio (F.A.R.) shall be 1 to 1.

C. The maximum height of a building or structure on the Property shall be limited to one story and may not exceed 28 feet.

**PART 3.** Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the commercial liquor sales (CS-1) district and other applicable requirements of the City Code.

**PART 4.** The Property is subject to Ordinance No. 20081211-097 that established zoning for the West Oak Hill Neighborhood Plan.

**PART 5.** This ordinance takes effect on July 9, 2018.


**PASSED AND APPROVED**

June 28, 2018

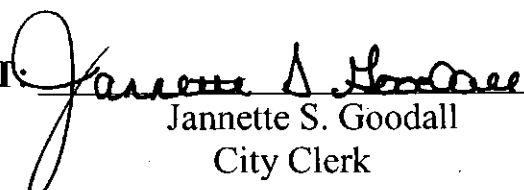
§  
§  
§

  
Steve Adler  
Mayor

**APPROVED:**

  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
Jannette S. Goodall  
City Clerk

B-03

23 of 51

RR

92-0116

SP92-246C

DR

FAST FOOD

GO

FAST FOOD

92-0142

C14-2018-0005

GR-NP

NPA-2016-0025.02

C14-2015-0134  
C14-85-288(RCA)

SOUTHWEST PKWY

CS-NP

UNDEV

C14-2008-0129

GR-NP

Zoning

Exhibit B

Zoning Case: C14-2018-0005



 SUBJECT TRACT

 PENDING CASE

 ZONING BOUNDARY

1" = 200'

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.



**From:** Rivera, Andrew

**Sent:** Tuesday, April 28, 2020 7:05 AM

**To:** Chaffin, Heather <[Heather.Chaffin@austintexas.gov](mailto:Heather.Chaffin@austintexas.gov)>; Rhoades, Wendy <[Wendy.Rhoades@austintexas.gov](mailto:Wendy.Rhoades@austintexas.gov)>; Graham, Mark <[Mark.Graham@austintexas.gov](mailto:Mark.Graham@austintexas.gov)>; Linseisen, Andrew <[Andrew.Linseisen@austintexas.gov](mailto:Andrew.Linseisen@austintexas.gov)>; Phillips, Atha <[Atha.Phillips@austintexas.gov](mailto:Atha.Phillips@austintexas.gov)>

**Subject:** Fwd: April 28, 2020 Staff Proposed Actions Agenda and Q & A Report

All:

Please see questions from Commissioner Shaw. If possible please provide a response by 2pm.

Thank you,

Andrew

Get [Outlook for iOS](#)

---

**From:** Shaw, Todd - BC <[BC-Todd.Shaw@austintexas.gov](mailto:BC-Todd.Shaw@austintexas.gov)>

**Sent:** Tuesday, April 28, 2020 2:08 AM

**To:** Rivera, Andrew; Kazi, Fayez - BC; Kenny, Conor - BC

**Subject:** Re: April 28, 2020 Staff Proposed Actions Agenda and Q & A Report

Andrew,

I have the following questions related to the items on the agenda tomorrow.

Thanks,

Todd Shaw

#### B2 and B3

This site is within the vulnerable areas identified in Austin Uprooted Study. Proposed zoning in the drafts of the revised LDC did not allow for increased zoning in these areas even if along corridors. Has Council provided any policy guidance to staff when rezoning in vulnerable areas while awaiting changes to the LDC?

#### B4, B5, and B6

- 1) What are the Environmental Commission recommendations referred to in B4 backup?

**RESPONSE:** The Environmental Commission back up has been attached to the staff information provided as late backup. The Environmental Commission recommended the PCA with the following conditions:

1. Phase 5 will develop within 25% impervious cover on a net site area;

2. dedicate 6.32-acre Tract 1 as additional lands to meet impervious cover needs;
3. dedicate necessary acreage of Tract 2 as additional lands for the Phase 5 development to not exceed 25% impervious cover Net Site Area on; and
4. pursue use of rain garden in Phase 5 as allowable under TCEQ Edwards Rules.

The applicant has agreed to comply with the conditions recommended by the Environmental Commission.

2) Does applicant agree to the Environmental Commission recommendations?

RESPONSE: Yes, the applicant has agreed to the comply with the recommendations by the Environmental Commission. Per terms of the PCA the 6.32 acre tract (Tract 1) will be dedicated to the City of Austin within six months of the execution of the PCA. The applicant has agreed to dedicate additional land to achieve 25% net site area impervious cover for Phase 5 of the existing plan. The applicant has agreed to dedicate the additional land to the City of Austin prior to release of a site development permit for the mixed use project. To achieve the required 25% net site area impervious cover, the applicant proposes to dedicate land that contains approximately 2 acres of additional net site area (as defined in the current site plan). The land will be located in the Barton Springs Zone and the City of Austin shall approve of the parcel prior to acceptance of the dedication.

3) Please explain this staff comment below. How does allowing higher density growth far outside the urban core along corridors that are not identified as an Imagine Austin Corridors or Transit Priority Network supported by the comprehensive plan?

B-5 Page 4 – “If Austin is to grow and evolve as a compact and connected city, as envisioned in the adopted Imagine Austin Comprehensive Plan (IACP), then development that provides additional housing units is necessary. One of the primary mechanisms for achieving compact growth will be development, or redevelopment, of larger sized properties such as this into higher density residential.”

RESPONSE: Although this site is not located on any of the corridors described above, one benefit of the proposed higher density apartments at this particular location is the adjacency to employment opportunities and retail goods/services which can contribute to a reduction in vehicle trips in this environmentally sensitive area.

4) B5 - What does the Figure on page 8 of 23 represent?

RESPONSE: The Imagine Austin Compliance map highlights mobility and connectivity options that are located within a quarter mile and half of a mile radius of the subject site. In highly connected areas, the connectivity map will show public schools, libraries, parks, Cap Metro transit routes and bus stops. The Compliance map on page 8 shows there is a general lack of mobility and connectivity options in the area, which would necessitate the use of the automobile to access civic uses, jobs, and goods and services. However, the Compliance map doesn't account for everything on the ground such as the existing Cap Metro stop or that there are public sidewalks in this area.

5) How will the rezoning and planned development of 400 to 600 unit residential development support the Oak Hill Combined Neighborhood Plan (OHCNP) Future Land Use Map (FLUM) for a “complete community”?

-“Create a mix of uses in existing corridors of commercial development that will provide a diversity of local services convenient to neighborhoods and establish commercial “nodes” (concentrated) (p 67)

- “With access to both Southwest Parkway and William Cannon, this area is appropriate for a mix of office, retail, and residential uses. Additionally, current residences and offices in the surrounding area could be served by community-level retail here. (p 79)”



RESPONSE: The Oak Hill Combined Neighborhood Plan FLUM for this area is Mixed Use. The Imagine Austin concept of complete communities came from our citizens advisory task force, and is defined in Appendix C. Glossary as "complete community – Areas that provide amenities, transportation, services, and opportunities that fulfill all residents material, social, and economic needs. For more detailed information on complete communities, see p. 88 of the plan." However, different areas of Austin have different needs and different people define complete communities differently. For example, some people define a complete community as having a hospital, others a grocery store, others a bus stop, and others a coffee shop, etc. Currently the area bound by Southwest Parkway, William Cannon, Rialto, and Terravista has mostly office and retail uses. The proposed project would add multifamily residential uses to this area, thus contributing to its completeness by adding another land use.

- 6) Has the developer committed to dedicating parkland to support the residents?

RESPONSE: Yes, please refer to attached exhibit.

- 7) What are the terms of the March 4, 2020 project consent agreement completed and reviewed by the Environmental Commission? [Not included in backup.]

RESPONSE: A summary of the terms of the PCA have been included in the late backup along with the recommendation by the Environmental Commission.

- 8) What is the current allowed impervious cover and will this change if the rezoning is approved?

RESPONSE: The allowable impervious cover on the current site development permit is 17.5 acres. The applicant has requested to add 0.1 acres (4,356 SF) of impervious cover to the overall plan to accommodate the addition of outdoor decks and patio space for restaurants in phases 1, 2 and 3. A summary of the terms of the PCA have been included in the late backup along with the recommendation by the Environmental Commission.

- 9) Questions related to comments made by Leigh Ziegler/ 4815 Trail Crest Circle / District 8 Resident/ OHNPCTMember (See B4 backup).

- a) Please describe issues with unlined ponds.

"Additionally, the applicable Drainage Criterion Manual ( from letter of 2001) does not require lined retention/ detention ponds nor pollution controls over most if not the entire Lantana Phase 1 Section 2 acreage."

RESPONSE: The Lantana Block P, Lot 3 development is located over the contributing zone of the Edwards Aquifer. In accordance with the Texas Commission Environmental Quality and the City of Austin regulations an impermeable liner is not required. The impermeable liners is only required when located over the recharge zone. All water quality ponds in the Barton Springs Zone have a yearly operating permit requirement that includes an on-site inspection to ensure proper function.

- b) Please discuss the potential pollution and erosion that is caused by taller buildings. Is this an accurate statement?

" Increasing the FAR fivefold (from .2 to 1) potentially increases the erosion, pollution and non- dispersed sheet flow on- site capture coming from suddenly taller buildings which is not addressed adequately for site plan stage."

RESPONSE: An increase in the height of the buildings, or an increase in the FAR, do not impact the erosion or storm water runoff from the proposed project. Erosion and storm water runoff are a function of the impervious cover which has been only minimally increased with the proposed PCA. To construct mixed use residential buildings on the

site following approval of the PCA and the zoning case, the applicant will be required to submit a formal site plan revision to modify the existing site development permit. Staff will review the proposed water quality (treatment) and quantity (detention) measure proposed as part of the revision for compliance with the applicable Land Development Code and Criteria.

10) Will developer agree to SOS Alliance conditions identified in their letter?

RESPONSE: Yes, the applicant has agreed to comply with the conditions outlined in the letter from the SOS Alliance.

11) Can you explain what Bobby Levinski, Attorney from SOS Alliance, is referring to in the following statement in his letter?

"We have previously expressed, in great detail, many of our concerns about the current status of the Lantana "letter agreement" and the lack of tracking by the City of Austin of the total amount of allowable impervious cover already used pursuant to the agreement's terms."

RESPONSE: City staff have had extensive discussions with the SOS Alliance related to compliance with the "letter agreement" applicable to the collective Lantana project. The City is not in agreement with some of the positions on the allocation and accounting of impervious cover made by SOS. The City and the SOS Alliance continue to discuss this issue.

B7

Developer is requesting UNO standards. Do they plan to include affordable housing in return for the increased entitlements?

---

**From:** Rivera, Andrew <[Andrew.Rivera@austintexas.gov](mailto:Andrew.Rivera@austintexas.gov)>

**Sent:** Monday, April 27, 2020 7:18 PM

**To:** Kazi, Faye - BC <[bc-Fayez.Kazi@austintexas.gov](mailto:bc-Fayez.Kazi@austintexas.gov)>; Kenny, Conor - BC <[BC-Conor.Kenny@austintexas.gov](mailto:BC-Conor.Kenny@austintexas.gov)>

**Subject:** April 28, 2020 Staff Proposed Actions Agenda and Q & A Report

Attached please find the staff proposed actions agenda. Note the following change, B-13, is now applicant postponement to May 12<sup>th</sup> (consent).

Also attached please find the Q & A report.

Thank you,



## MEMORANDUM

**TO:** Fayez Kazi, Chair and Members of the Planning Commission

**FROM:** Andrew Linseisen, Assistant Director  
Development Services Department

**DATE:** April 27, 2020

**SUBJECT: Project Consent Agreement  
Lantana Block P, Lot 3 (SP-2014-0262C)  
Backup and Staff Recommendation**

As provided in Section 25-1-544 of the City of Austin Land Development Code, the developer of the Lantana Development on Lot 3 and 5, Block P of the Lantana Phase 1, Section 2 Subdivision has requested consideration of a Project Consent Agreement (PCA). The proposed PCA will allow the development to add a residential use to the existing approved site development permit. A PCA is a voluntary mechanism for determining applicable regulations where the extent of a project's vested development rights are unclear or for incentivizing projects with clearly established vested rights to achieve greater compliance with current regulations. In such cases, a PCA provides a means for the Council to modify development regulations applicable to a property.

The Lantana Block P, Lot 3 project is located at 7415 Southwest Parkway which was approved for a commercial and office development under Site Development Permit No SP-2014-0262C. Phases 1, 2, and 3 of the existing development have been constructed and Phase 4 is currently under construction. The Planning Commission approved a request to extend the life of the application to April 30, 2022, on June 25, 2019. The proposed PCA will apply only to the currently unconstructed Phase 5 of the project modifying the project to include a residential use. A summary of the major tenants of the proposed PCA are outlined below:

- No additional impervious will be added to Phase 5, the overall impervious cover in the entire development will be fixed at 17.6 acres.
- 6.326 acres known as Lot 8, Block P, of the Lantana Phase 1, Section 2 Subdivision will be dedicated to the City of Austin.
  - 3.098 acres of Lot 8 will remain natural area with any development limited to pedestrian trails so that the entire site, all phases, maintain 40% natural area;
  - 3.228 acres will be utilized for City of Austin Public Park amenities;
  - Lot 8 will be dedicated to the City within six months of the effective date of the PCA;
- Extension of the life of Phase 5 of the Lantana Block P, Lot 3 Site Development Permit (SP-2014-0262C) by two years to April 30, 2024;

- To achieve 25% net site area impervious cover for Phase 5 of the existing plan as recommended by the Environmental Commission, the applicant has agreed to dedicate additional land to the City of Austin prior to release of a site development permit for the mixed use project. To achieve the required 25% net site area impervious cover, the applicant proposes to dedicate land that contains approximately 2 acres of additional net site area (as defined in the current site plan). The land will be located in the Barton Springs Zone and the City of Austin shall approve of the parcel prior to acceptance of the dedication.
- The addition of the residential mixed use will not increase traffic based on the density information provided with the proposed zoning case (C14-2019-0003);

Attached to this memorandum are copies of the Environmental Commission Recommendation (Motion 20200304 006a) approved at the March 4, 2020 meeting and a copy of the staff backup report from the Environmental Commission meeting on March 4, 2020, prepared by Atha Phillips with Watershed Protection Department. These exhibits provide additional specifics related to the overall environmental compliance proposed with the proposed PCA.

The applicant has filed a zoning change request under case number C14-2019-0003 to add a Mixed Use (MU) overlay to the existing GR-NP zoning that will allow the addition of a multi-family residential use to the existing project. The applicant has also sought to amend a restrictive covenant that limits the amount of square footage, which staff also supports since the total impervious cover will be limited through the PCA. The zoning case and amendment to the restrictive covenant have been scheduled for Council consideration at the May 7, 2020, meeting which will allow Council consideration of the proposed PCA, the zoning, and the restrictive covenant amendment at the same meeting.

After consideration of the proposed terms of the Project Consent Agreement, staff recommends that the Planning Commission make a recommendation to Council in support of approval of the PCA as presented.

**cc:** Chris Herrington, Watershed Protection Department  
Erika Lopez, City of Austin Law Department



## **ENVIRONMENTAL COMMISSION MOTION 20200304 006a**

**Date:** March 4, 2020

**Subject:** Lantana Project Consent Agreement

**Motion by:** Kevin Ramberg

**Seconded by:** Peggy Maceo

### **RATIONALE:**

**WHEREAS**, the Environmental Commission recognizes the applicant is requesting the Commission consider a Project Consent Agreement waiving provisions of City Code Chapters 25-7 (Drainage) and 25-8 (Environment), including Chapter 25-8, Article 13 (Save Our Springs Initiative), to allow construction of a mixed-use residential project at located at 7415 Southwest Parkway in the East Oak Hill Neighborhood Planning Area;

**WHEREAS**, the Environmental Commission recognizes this action concerns land located in the Barton Springs Zone; and

**WHEREAS**, the Environmental Commission recognizes that City of Austin staff recommend approval of the variance requests with conditions.

**Therefore**, the Environmental Commission recommends approval of the requested project consent agreement (PCA) to allow for the construction of a mixed-use development with a residential component with the following;

### **Staff Conditions:**

1. applicant shall provide additional acreage of 3.098 acres to meet the Hill Country Roadway requirement of 40% undisturbed natural area per 25-2-1025 and development on this lot will be restricted to only allow trails;
2. impervious cover for the project will be capped at 17.5 acres (49% of current site plan SP-2014-0262C(XT2));

### **and the following Environmental Commission Conditions:**

1. Phase 5 will develop within 25% impervious cover on a net site area;
2. dedicate 6.32-acre Tract 1 as additional lands to meet impervious cover needs;
3. dedicate necessary acreage of Tract 2 as additional lands for the Phase 5 development to not exceed 25% impervious cover Net Site Area on; and
4. pursue use of rain garden in Phase 5 as allowable under TCEQ Edwards Rules.

**VOTE 6-0**

For: Bedford, Thompson, Ramberg, Guerrero, Coyne, and Maceo

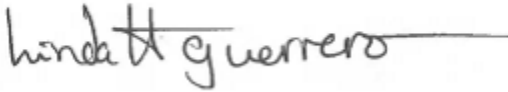
Against: None

Abstain: None

Recuse: None

Absent: Creel, Smith, Nill, Neely, Gordon

Approved By:

A handwritten signature in black ink that reads "Linda H. Guerrero". The signature is written in a cursive, flowing style with a horizontal line extending from the end.

Linda Guerrero, Environmental Commission Chair

**ITEM FOR ENVIRONMENTAL COMMISSION AGENDA**

**COMMISSION MEETING DATE:** February 19, 2020

**NAME & NUMBER OF PROJECT:** Lantana PCA

**NAME OF APPLICANT OR ORGANIZATION:** Michael Whellan  
Armbrust & Brown, PLLC

**LOCATION:** 7415 Southwest Parkway

**COUNCIL DISTRICT:** 8

**ENVIRONMENTAL REVIEW STAFF:** Atha Phillips, Environmental Officer's Office  
(512)974-2132, [atha.phillips@austintexas.gov](mailto:atha.phillips@austintexas.gov)

**WATERSHED:** Williamson Creek Watershed, Barton Springs Zone, Drinking Water Protection Zone

**REQUEST:** Consider a Project Consent Agreement waiving provisions of City Code Chapters 25-7 (*Drainage*) and 25-8 (*Environment*), including Chapter 25-8, Article 13 (*Save Our Springs Initiative*), to allow construction of a mixed-use residential project located at 7415 Southwest Parkway in the East Oak Hill Neighborhood Planning Area. This action concerns land located in the Barton Springs Zone.

**STAFF RECOMMENDATION:** Staff recommended with conditions.

**RECOMMENDED CONDITIONS:**

1. Applicant will provide additional acreage of 3.098 acres to meet the Hill Country Roadway requirement of 40% undisturbed natural area per 25-2-1025 and development on this lot will be restricted to only allow trails.
2. Impervious cover for the project will be capped at 17.5 acres (49% of current site plan SP-2014-0262C(XT2)).



# Lantana Project Consent Agreement (PCA)

Briefing to the Environmental Commission

Atha Phillips

Environmental Officer's Office

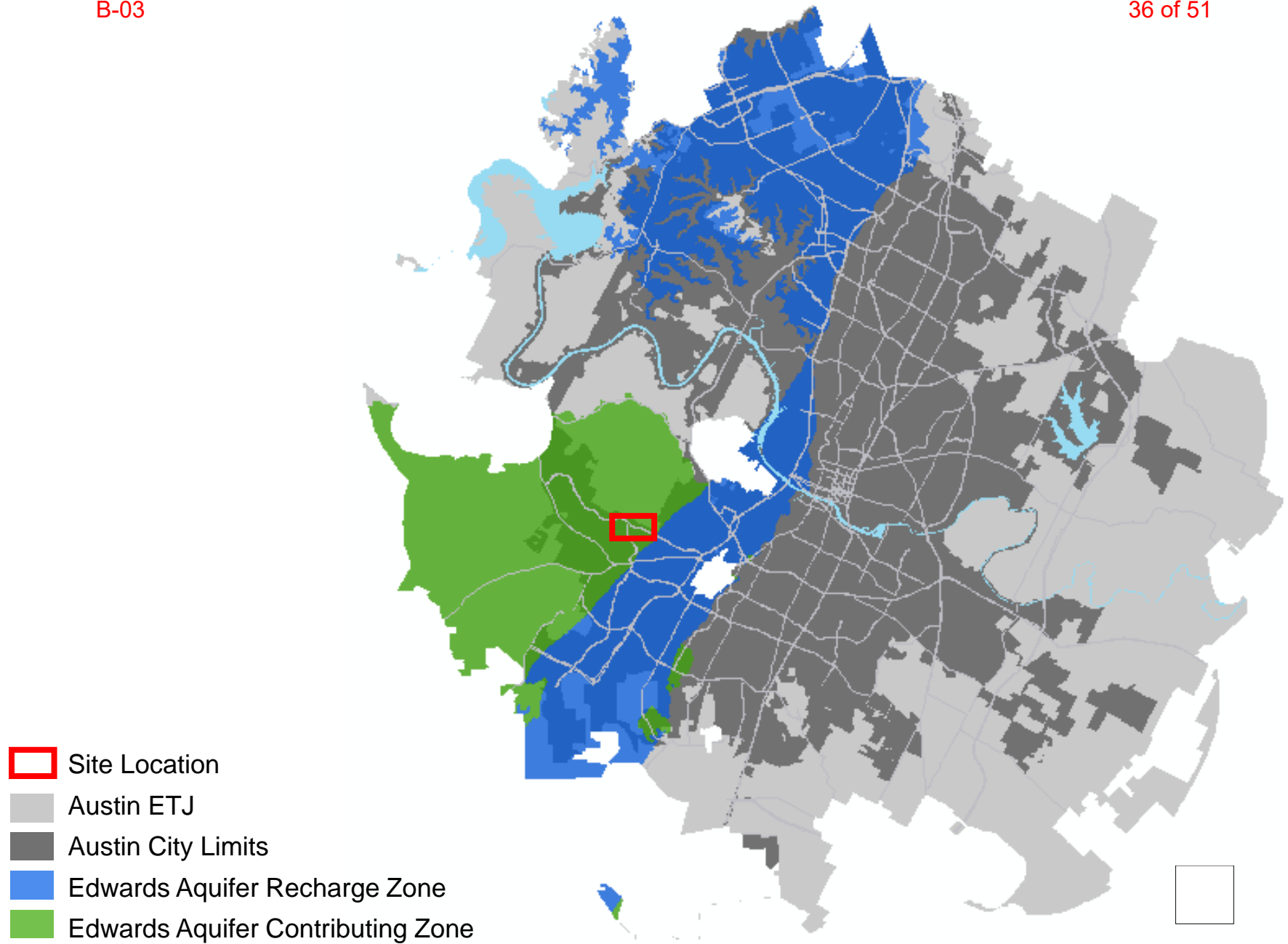
February 19, 2020

# What is a PCA?

- PCA = Project Consent Agreement
- PCAs are part of the 245 process detailed in 25-1-544
- PCAs are considered when the extent of a project's vested rights are unclear and for incentivizing projects with clearly established vested rights to achieve greater compliance with current regulations
- The 245 process lives within the Development Services Department
- DSD has determined that this project is a candidate for a PCA

# Site Data:

- Williamson Creek Watershed
- Barton Springs Zone (SOS Applies)
- Drinking Water Protection Zone
- Contributing Zone of the Edwards Aquifer
- Full-Purpose
- Existing approved site plan (SP-2014-0262C(XT2))
- Existing project has vested rights under 245
- Existing site plan wants to change zoning from Office to Mixed Use
- Mixed Use would allow for multi-family use
- Existing Preliminary Plan referenced within the vesting documents limits multi-family







 Site Location



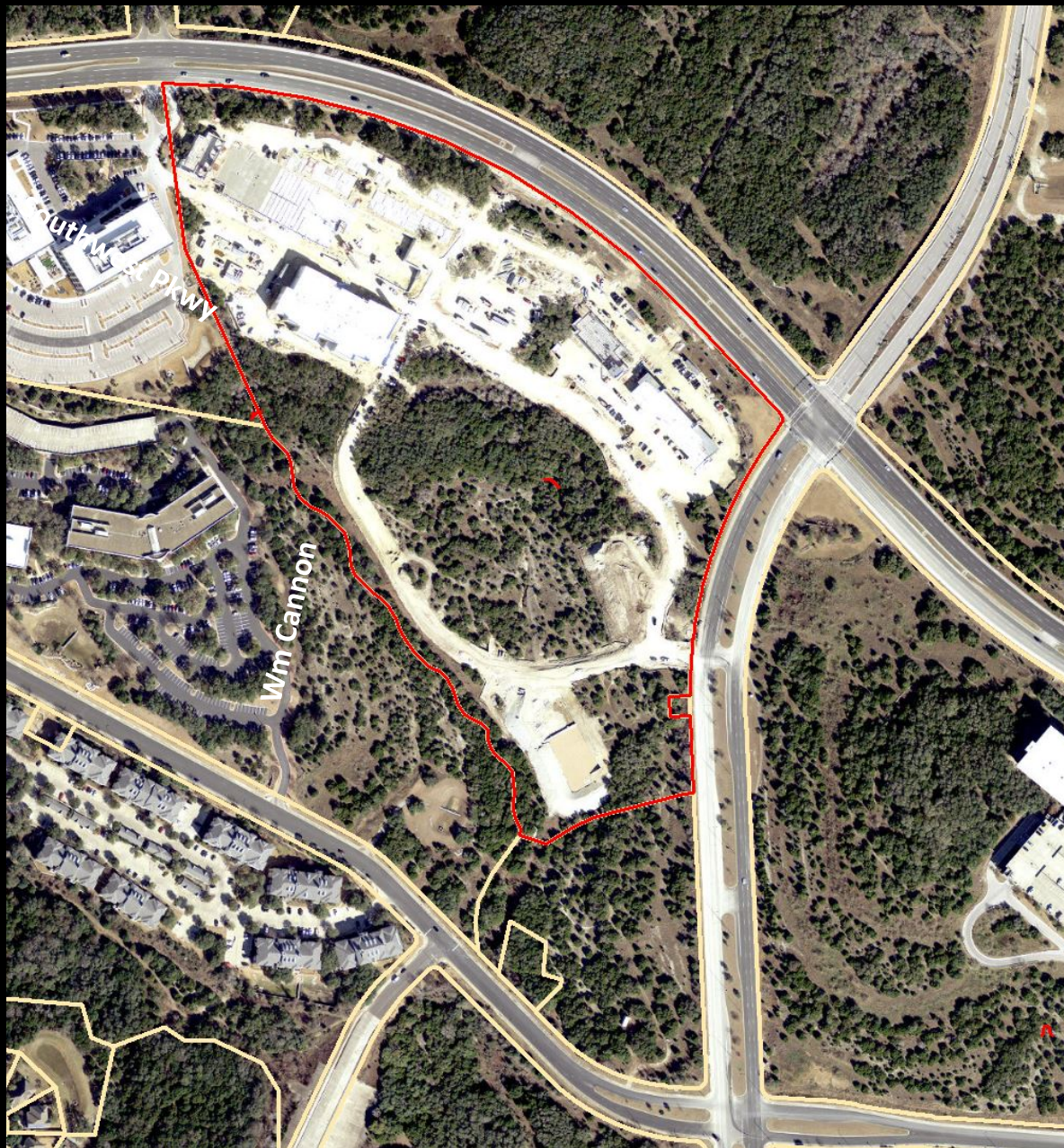




— Watershed Boundary     Site Location











# Current Code Amendments:

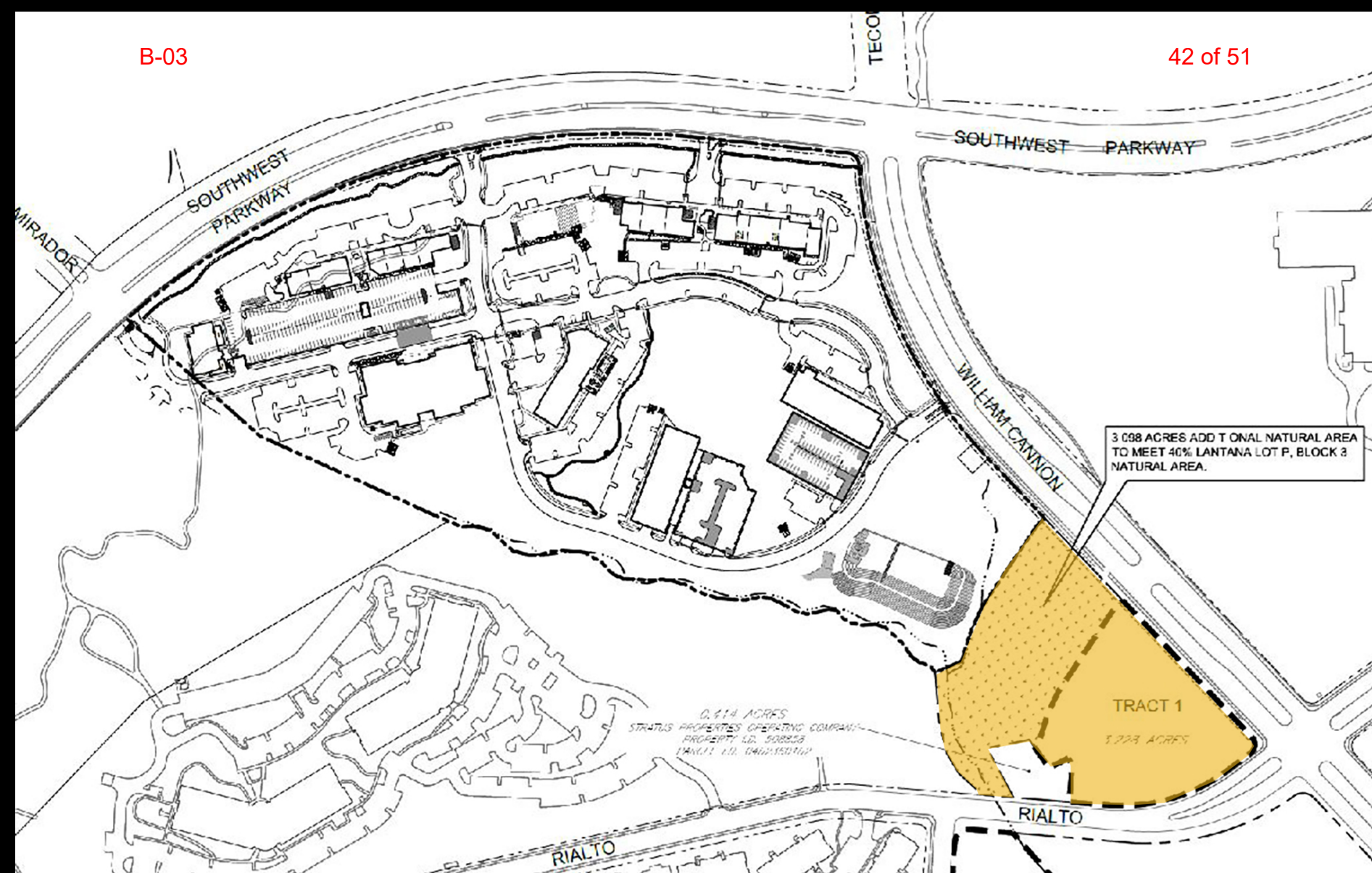
## Modification to 25-8 Environmental:

1. 25-8-301 Restricts driveways of slopes greater than 15%
  - Project shall not exceed 65% impervious cover on slopes 10-20%, nor 25% on slopes greater than 20%
2. 25-8-302 Restricts building on certain slopes
  - Project shall not exceed 65% impervious cover on slopes 10-20%, nor 25% on slopes greater than 20%
3. 25-8-341 Cut requirements-Allows up to 4' of cut
  - Project is allowed 12'
4. 25-8-342 Fill requirements-Allows up to 4' of fill
  - Project is allowed 12'

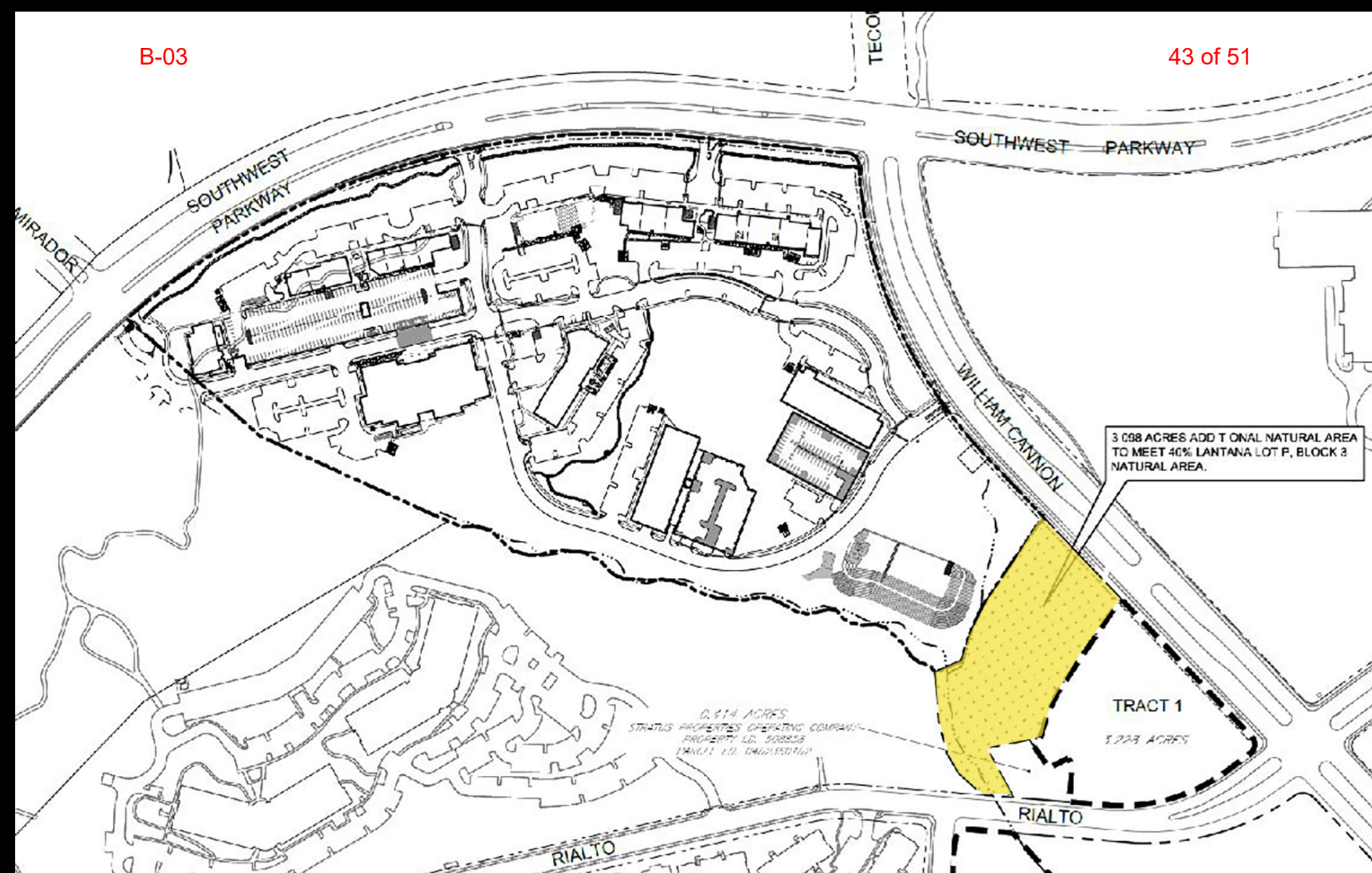
# Save Our Springs(SOS) Amendment:

1. Impervious cover over the allowable amount of 25% NSA
  - Project is allowed up to 60%
2. SOS water quality
  - Project has existing sedimentation/filtration pond that does not meet the non-degradation requirement outlined in SOS





Tract 1 6.326 acres



3.098 acres towards 40% Natural Area Development within this area will be restricted to trails

# Staff Recommendation

Recommendation: Recommended with conditions

1. Impervious cover will be capped at 17.5 acres (49% of current site plan SP-2014-0262C(XT2))
2. Applicant will provide additional acreage of 3.098 acres to meet the Hill Country Roadway requirement of 40% undisturbed natural area per 25-2-1025 and development within this area will be restricted to only allow trails

# Questions?

Contact Information:

Atha Phillips

Environmental Officer's Office

(512) 974-2132

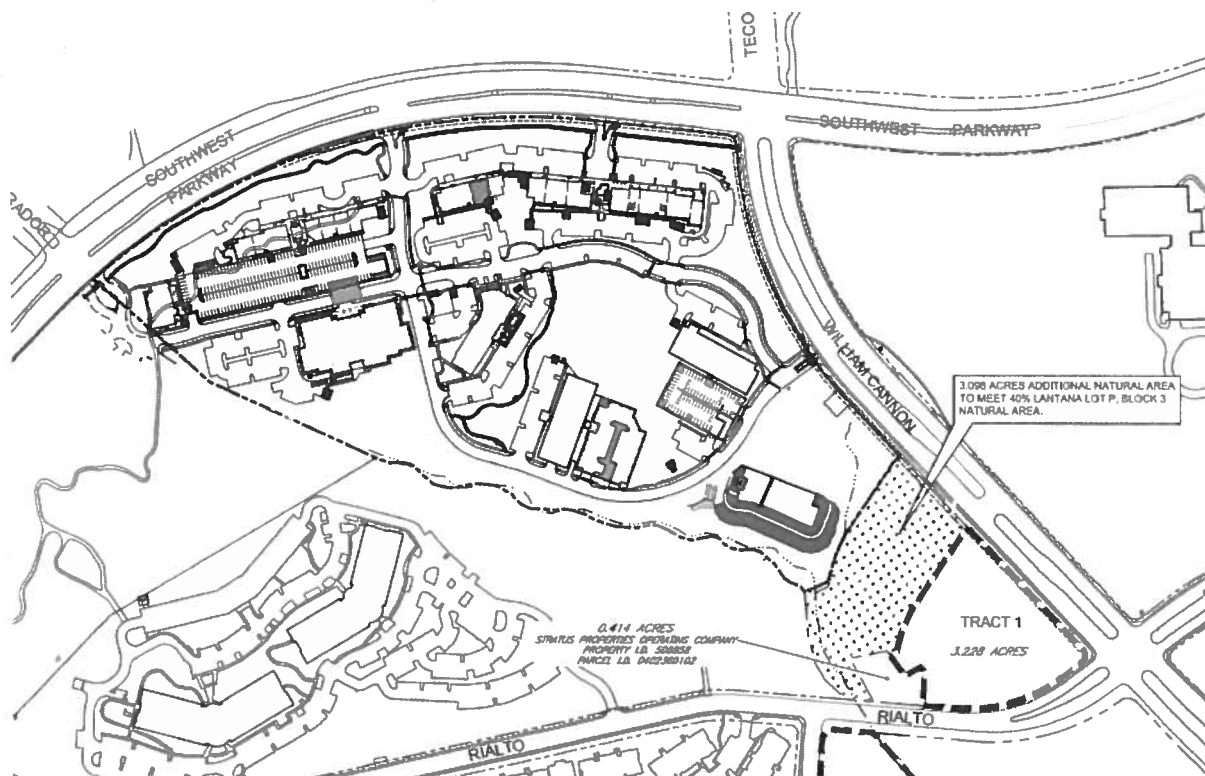
[Atha.Phillips@austintexas.gov](mailto:Atha.Phillips@austintexas.gov)



## 6.32 Acres To Be Dedicated to the City of Austin

3.098 acres to remain natural area

3.228 acres for neighborhood park with 10,500 square feet of impervious cover for amenities







February 18, 2020

Melissa Neslund  
Development Manager  
Stratus Properties  
212 Lavaca St, Ste. 300  
Austin, TX 78701

Re: Project Consent Agreement & SOS Amendment for 7415 Southwest Parkway

Ms. Neslund,

Thank you very much for continuing to speak with us regarding your proposed project at 7415 Southwest Parkway, which is part of the overall development otherwise known as “Lantana.” As I’m sure you can imagine, given the history of this site and the request for an amendment to the Save Our Springs Initiative Ordinance (“SOS Ordinance”), it has generated quite a bit of conversation at the Save Our Springs (“SOS”). We appreciate that Stratus has continually demonstrated a willingness to engage in dialogue surrounding their projects and their willingness to incorporate community benefits into their projects. This letter is intended to continue that dialogue so that we can help reach a reasonable resolution to allow the project to occur, while still furthering the City of Austin’s and SOS’s missions to improve the overall water quality of the Barton Springs Zone and the Edwards Aquifer.

***History and Dialogue re: Lantana Project***

To help explain how we got to our current position, we thought it would be helpful to provide some context with a brief description of key facts. As you are aware, the Lantana Letter Agreement arose out of a dispute over vested rights alleged to be applicable to a 1986 preliminary plan. This Letter Agreement (which was never approved by the City Council) has been interpreted by the City to grandfather projects in the area to pre-SOS Ordinance regulations, which has enabled Stratus (and other landowners to which Stratus sold land) to develop much of the land without SOS-water quality ponds and well over the impervious cover limits established to protect water quality. SOS has continually questioned the validity of the Letter Agreement and has advocated for projects within the area to be developed under current environmental regulations.

Last summer, the site plan approved for 7415 Southwest Parkway was set to expire by its own terms. As a result, Stratus requested an extension from the Planning Commission. SOS raised objections to this site plan extension, because we received notice that Stratus intended to change the proposed use of Phase 5 of the site plan from “office” to “multi-family”. A “change of use” such as the one envisioned would typically be an indication that there is a **new project** under normal circumstances for vested rights determinations, and thus, the new project would be subject to **current code**. SOS met with Stratus, and after some conversation about potential improvements that could be made for water quality and reductions in impervious cover, SOS withdrew its objection to the site plan extension.

Because the “change of use” is indeed a new project, Stratus has now requested a **project consent agreement**, which is a tool adopted in the City Code for “determining applicable regulations where the extent of a project’s vested rights are unclear and for incentivizing projects with clearly

established vested rights to achieve greater compliance with current regulations.” In October of last year, SOS met with Stratus again. Stratus explained that it could not make improvements to the water quality pond and that it did not intend to reduce the impervious cover of the multi-family project itself. Because the proposal represented no real positive benefit for the environment, SOS explained that we could not support the proposal but were open to continued dialogue and would not outright oppose it from the start. We also explained that we had many questions regarding the overall status of the Letter Agreement and whether development limitations might apply to land Stratus considered adding to its site plan as mitigation.

### ***Problem: Lack of Tracking of Impervious Cover Entitlements***

After looking further into the Lantana Project, SOS raised a problem to Stratus and the City of Austin that neither entity is tracking the ongoing entitlements that have been used pursuant to the Letter Agreement. The Letter Agreement establishes aggregate development entitlements applicable to multiple properties with the subject area, intended to limit the impact of the overall development on water quality. However, unless these entitlements are actively tracked and reviewed, there is no way to know whether the aggregate caps have been exceeded. This is not meant to point fingers; rather, it is highlighting a serious concern that we have raised with several development agreements.

In January 2020, SOS consulted with Susan Scallon, who recently retired from the City of Austin, as its Chapter 245 coordinator, to help look into status of the Lantana Project and assess the extent to which its impervious cover entitlements have been used under the Letter Agreement. Based on Susan’s research and our own legal review of the Letter Agreement, we still have some significant concerns.

### ***Impervious Cover Entitlements – Used up?***

The letter between the City of Austin and Stratus, dated July 10, 2001, which is the most recent and controlling document for the Letter Agreement, includes two important aggregated maximums for impervious cover entitlements applicable to the Lantana Project:

“For commercial tracts, the calculated impervious cover shall not exceed forty (40) percent of net site area in the uplands zone, exclusive of adjacent right-of-way impervious cover within the Williamson Creek Watershed.”; and

“For the portion of Lantana Southwest Preliminary Plan (C8-84-102.03) covered by this document, the calculated impervious cover shall not exceed twenty-five (25) percent of net site area in the uplands zone.” (emphasis added)

Stratus has previously argued that these aggregate maximums are inapplicable to the subject property. We disagree. While we acknowledge that the letter is horribly written and should never have been treated as a controlling document for land development regulations, those decisions were made long ago. The subject line of the document and the introductory paragraph make it very clear that the 2001 letter is applicable to the entire Lantana project. It has also been suggested that exclusions provided in the first sentence of item 1 excluded the application of these impervious cover limits to certain sites, but such a reading would be illogical; under such an interpretation, the 40% NSA cap would only apply to a single property. More fundamentally, it is evident by the use of the phrase “covered by this document” (underlined above) that the aggregate impervious cover limit was meant to apply to entirety of the preliminary plan, not just a subset.

The subject property (7415 Southwest Parkway) was subdivided out of the referenced preliminary plan, C8-84-102.03. However, even if the subject property were excluded from analysis, the total amount of impervious cover laid in the area would already exceed the 25% NSA maximum. Below is a table listing the site plans and subdivisions that have been approved from the lots shown on C8-84-102.03 (excluding the entirety of C8-84-102.03.1A, which is the applicable subdivision for the subject property), along with their respective impervious cover entitlements used.

As you will see, the total impervious cover used totals an estimated 57.77 acres out of a possible ~186 acres of net site area. This amount of impervious cover represents, at a minimum, 30.97% net site area made impervious.

Case Number	GSA	NSA	Used	NSA IC%	GSA IC%
SP-00-2484C	13.4	13.4**	5.62	41.94%	41.94%
C8-84-102.03.3A-6A*	142.079	137	47.76	34.86%	33.62%
C8-84-102.03.2A	69.05	21.007	0	0.00%	0.00%
SP-2014-0317	7.416	7	0	0.00%	0.00%
SP-2014-0071C	6.074	6.074**	2.96	48.73%	48.73%
SP-2015-0571C	9.107	8.47	4.15	49.00%	45.57%
SP-2013-0111C	7.33	7	2.9	41.43%	39.56%
	241.056	186.551	57.77	30.97%	23.97%

*\*A full accounting of net site area transfers is provided on C8-84-102.03.6A. The impervious cover data came from the Watershed Department.*

*\*\* Because two site plans (highlighted in yellow) were inexplicably approved using Gross Site Area calculations and do not detail the total Net Site Area, the more conservative Gross Site Area figure was used. This results in a more generous estimate of the total amount of net site area paved. If Net Site Area calculations were provided for these site plans, the 30.97% figure would be much higher.*

Even without including the subject property included, the impervious cover total exceeds what was allowed by 25% cap within the Letter Agreement by over 11 acres of pavement. If the subdivision for the subject property were included, as well, the overall impervious cover used skyrockets. Each of the site plans approved on land subdivide by C8-84-102.03-1A exceeds 25% NSA: (i) SP-06-0757C uses 25.92% NSA; (ii) SP-00-2416C uses 35.19% NSA; (iii) and SP-2014-0262C uses 54.12% NSA.

We also believe the 40% NSA has been exceeded, as well. However, because the 40% NSA impervious cover cap applies only to the Williamson Creek watershed and some of the applicable site plans were approved under Gross Site Area calculations, not Net Site Area, it is much more difficult for us to provide an accurate assessment of the status the impervious cover used as it relates to that maximum. We would encourage the City of Austin to do a proper impervious cover survey for both impervious cover caps.

***Concerns about PCA Proposal***

By raising the history of the Letter Agreement and the figures we have regarding the status of the impervious cover entitlements already used, we attempt to highlight our underlying concerns with the proposed Project Consent Agreement and related SOS Ordinance amendment. While we appreciate that Stratus has identified land to mitigate the increase in its impervious cover resulting from the proposed project, we are concerned that the land identified does not actually result in any impervious cover “savings”. Assuming, from our perspective, that the impervious cover aggregate caps apply to this land, the result would simply be shifting permissible impervious cover from one site to another within the applicable area. And, that may be impervious cover that already exceeds what has been agreed to.

Furthermore, even if one ignores our concerns and the impervious cover maximums are inapplicable, the Comprehensive Watersheds Ordinance (CWO) would apply. Under the CWO, multi-family is restricted to 40% NSA, unlike the approved office use, which would have been permitted to use 60% NSA. By our calculations, the shift in use reduces the total allotted impervious cover on the site by approximately 2 acres to 17.66 acres of impervious cover permissible. This is essentially what is proposed by the Project Consent Agreement, and thus results in no “greater compliance with environmental regulations” as required by the PCA code. The City of Austin would gain nothing from the approval of this Project Consent Agreement that would not have already been required.

***SOS Recommendation***

In the spirit of compromise and to seek a resolution that would benefit both Stratus and water quality, SOS would like to make the following recommendations, and if agreed to by the application, would result in our support for the project:

1. Stratus has offered to dedicate ~3 acres of land (in addition to the 3 acres required for HCRO compliance) as parkland, near the southeastern edge of the development. Because this is land subject to the overall aggregate impervious cover maximums, we do not see an immediate benefit for water quality. Instead, we would propose that an equivalent amount of “net site area” (e.g. 3 acres) be preserved out of Lot 1, Block 1, which is located to the north of the project on Southwest Parkway and is also owned by Stratus. This land is located in the Barton Creek watershed and would be a higher priority (in our perspective) for land conservation. (Or, alternatively, Stratus could agree to develop the entirety of that lot subject to current environmental regulations/SOS Ordinance (e.g., SOS water quality ponds and 20% impervious cover NSA); **AND**
2. Prior to the approval of any more permits approved under the Letter Agreement, an impervious cover survey should be performed by the City of Austin to assess the status of the agreement and any remaining aggregate impervious cover amounts remaining. To the extent the impervious cover entitlements have been exceeded, appropriate mitigation methods should be pursued; **AND**
3. Any development of parkland within the area should be done in accordance with the SOS Ordinance.

Again, we thank you tremendously for the continued dialogue, and we hope that these recommendations might provide a way forward that will allow you to continue to proceed with your

multi-family project. If you have any questions or want to meet in person to discuss further, please do not hesitate to give us a call.

Best regards,

*/s/ Bobby Levinski*

**Bobby Levinski**  
Attorney,  
Save Our Springs Alliance  
512-636-7649 (mobile)  
bobby@sosalliance.org

**CC:**

Michael Whellan, Attorney for Stratus

Atha Phillips, Environmental Program Coordinator, City of Austin

Susan Scallon, Environmental Officer, Save Our Springs Alliance

Mark Littlefield, Littlefield Consulting