

## NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

**NEIGHORHOOD PLAN:** East Riverside/Oltorf Combined

**CASE#:** NPA-2017-0021.01      **DATE FILED:** July 31, 2017 (In-cycle)

**PROJECT NAME:** East Riverside/Oltorf FLUM Amendment

**PC DATE:**

May 12, 2020	March 12, 2019	May 8, 2018
March 24, 2020 (hearing canceled}	January 22, 2019	March 27, 2018
Jan. 28, 2020	November 27, 2018	February 27, 2018
Dec. 10, 2019	October 23, 2018	January 23, 2018
June 25, 2019	September 11, 2018	
May 28, 2019	July 24, 2018	
April 9, 2019	June 26, 2018	

**ADDRESS:** 4530 E. Ben White Blvd. SVRD WB

**DISTRICT AREA:** 3

**SITE AREA:** 12.44 acres

**OWNER/APPLICANT:** 4530 East Ben White Associates, LLC (Trevor Belton,  
Authorized Signatory)

**AGENT:** Coats Rose (John M. Joseph)

**CASE MANAGER:** Maureen Meredith, Planning & Zoning Department

**PHONE:** (512) 974-2695

**EMAIL:** Maureen.meredith@austintexas.gov

**TYPE OF AMENDMENT:**

**Change in Future Land Use Designation**

**From:** Single Family (small portion of property northwest corner)  
**To:** Commercial  
*(as amended on June 23, 2020)*

**Base District Zoning Change:**

**Related Zoning Case:** C14-2019-0167

**From:** CS-CO-NP & SF-2-NP  
2020)

**To:** CS-CO-NP (*as amended on June 23,*

**NEIGHBORHOOD PLAN ADOPTION DATE:** November 16, 2006

**PLANNING COMMISSION RECOMMENDATION:**

**May 12, 2020** – After discussion, the request for Mixed Use land use was denied. [A. Azar – 1<sup>st</sup>; R. Schneider – 2<sup>nd</sup>] Vote: 11-0-1. [F. Kazi off the dais.]

**March 24, 2020** – Public hearing was cancelled. Case was re-notified for May 12, 2020 hearing.

**January 28, 2020** – Postponed to March 24, 2020 on the consent agenda at the request of the Applicant. [J. Thompson- 1<sup>st</sup>; A. Azar – 2<sup>nd</sup>] Vote: 11-0 [P. Seeger absent].

**December 10, 2019** – Postponed to January 28, 2020 on the consent agenda at the request of the Applicant. [C. Kenny – 1<sup>st</sup>; A. Azhar – 2<sup>nd</sup>] Vote: 11-0 [C. Hempel and P. Howard absent]

**June 25, 2019** – Indefinitely postponed on the consent agenda at the request of the Applicant. [P. Howard – 1<sup>st</sup>; C. Kenny – 2<sup>nd</sup>] 11-0 [P. Seeger and J. Shieh absent].

**May 28, 2019** – Postponed to June 25, 2019 on the consent agenda at the request of Staff. [J. Shieh – 1<sup>st</sup>; P. Howard – 2<sup>nd</sup>] Vote: 12 -0 [K. McGraw absent].

**April 9, 2019** – Postponed to May 28, 2019 on the consent agenda at the request of Staff. [J. Thompson -1<sup>st</sup>; C. Kenny – 2<sup>nd</sup>] Vote: 9-0 [K. McGraw, R. Schneider and P. Seeger absent].

**March 12, 2019** – Postponed to April 9, 2019 on the consent agenda at the request of Staff. [P. Seeger 1<sup>st</sup>; K. McGraw – 2<sup>nd</sup>] Vote; 12-0 [A. De Hoyos Hart absent].

**January 22, 2019** – Postponed to March 12, 2019 on the consent agenda at the request of Staff. [J. Schissler – 1<sup>st</sup>; C. Kenny – 2<sup>nd</sup>] Vote: 11-0 [A. De Hoyos Hart and P. Seeger absent].

**November 27, 2018** – Postponed to January 22, 2019 on the consent agenda at the request of Staff. [Y. Flores – 1<sup>st</sup> – P. Seeger – 2<sup>nd</sup>] Vote: 12-0 [D. Anderson absent].

**October 23, 2018** – Postponed to November 27, 2018 on the consent agenda at the request of staff. [P. Seeger; C. Kenny -2<sup>nd</sup>] Vote: 11-0 [A. De Hoyos Hart absent. One vacancy].

**September 11, 2018** – Postponed to October 23, 2018 on the consent agenda at the request of Staff. [J. Schissler – 1<sup>st</sup>; J. Thompson – 2<sup>nd</sup>] Vote: 11-0 [P. Seeger absent. One vacancy].

**July 24, 2018** – Postponed to September 11, 2018 on the consent agenda at the request of Staff. [G. Anderson- 1<sup>st</sup>; A. De Hoyos Hart – 2<sup>nd</sup>] Vote: 8-0 [F. Kazi, J. Shieh, J. Thompson, and T. White absent. One vacancy].

**June 26, 2018** – Postponed to July 24, 2018 on the consent agenda at the request of Staff. [F. Kazi – 1<sup>st</sup>; T. White – 2<sup>nd</sup>] Vote: 11-0 [J. Thompson absent. One vacancy].

**May 8, 2018** – Postponed to June 26, 2018 on the consent agenda at the request of Staff. [J. Schissler – 1<sup>st</sup>; C. Kenny – 2<sup>nd</sup>] Vote: 13-0.

**March 27, 2018** – Postponed to May 8, 2018 on the consent agenda at the request of Staff. [G. Anderson – 1<sup>st</sup>; J. Thompson- 2<sup>nd</sup>] Vote: 12-0 [P. Seeger absent].

**February 27, 2018** – Postponed on the consent agenda to March 27, 2018 at the request of Staff. [J. Schissler – 1<sup>st</sup>; J. Shieh – 2<sup>nd</sup>] Vote: 12-0 [J. Thompson absent].

**January 23, 2018** – Postponed on the consent agenda to February 27, 2018 at the request of Staff. [P. Seeger – 1<sup>st</sup>; G. Anderson -2<sup>nd</sup>] Vote: 10-0 [K. McGraw absent. A. De Hoyos Hart and J. Schissler off the dais].

**STAFF RECOMMENDATION:** Staff supports the applicant’s request for Commercial land use on the small portion of on the northwest portion that has Single Family land use.

**BASIS FOR STAFF’S RECOMMENDATION:** Staff had not recommended the Applicant’s original request for Mixed Use land use because the property is within 2,000 feet of hazardous material which makes the request not suitable for a residential development. For more information, please see the zoning case report C14-2019-0167.

On June 23, 2020, the Applicant amended their application to a request a change in the land use on a small portion of the property at the northwest corner from Single Family to Commercial. Staff supports this request so the small part of single family land use and zoning would be consistent with the rest of the property with commercial zoning and land use.

## Land Use

### Goal 1

Preserve and enhance the character of existing residential neighborhoods.

- R1 Retain single family uses in established single family neighborhoods (NPZD; Neighborhood).
- R2 Consider existing residential densities and current housing stock in future land use and zoning decisions to promote compatibility (NPZD; Neighborhood).

### Goal 4

Encourage a balanced mix of residential, civic, commercial, office and other land uses without adversely affecting adjacent residential neighborhoods.

Obj. 4.1 Apply land use and zoning tools or options in specified areas to promote a mixture of uses.

## Transportation

### Goal 5

Enhance the transportation network to allow residents and visitors to travel around safely and efficiently by foot, bicycle, automobile and public transit.

Obj. 5.5 Encourage pedestrian and bike friendly neighborhoods by constructing and maintaining sidewalks and bikeways.

Obj. 5.6 Improve connectivity across high-traffic roadways to facilitate pedestrian and bicycle transportation.

## LAND USE DESCRIPTIONS

### *EXISTING LAND USE ON THE PROPERTY*

**Single family** - Detached or two family residential uses at typical urban and/or suburban densities.

### **Purpose**

1. Preserve the land use pattern and future viability of existing neighborhoods;
2. Encourage new infill development that continues existing neighborhood patterns of development; and

3. Protect residential neighborhoods from incompatible business or industry and the loss of existing housing.

### **Application**

1. Existing single-family areas should generally be designated as single family to preserve established neighborhoods; and
2. May include small lot options (Cottage, Urban Home, Small Lot Single Family) and two-family residential options (Duplex, Secondary Apartment, Single Family Attached, Two-Family Residential) in areas considered appropriate for this type of infill development.

### ***PROPOSED LAND USE ON THE PROPERTY***

**Commercial** Lots or parcels containing retail sales, services, hotel/motels and all recreational services that are predominantly privately owned and operated for profit (for example, theaters and bowling alleys). Included are private institutional uses (convalescent homes and rest homes in which medical or surgical services are not a main function of the institution), but not hospitals.

### **Purpose**

1. Encourage employment centers, commercial activities, and other non- residential development to locate along major thoroughfares; and
2. Reserve limited areas for intense, auto-oriented commercial uses that are generally not compatible with residential or mixed use environments.

### **Application**

1. Focus the highest intensity commercial and industrial activities along freeways and major highways; and
2. Should be used in areas with good transportation access such as frontage roads and arterial roadways, which are generally not suitable for residential development.

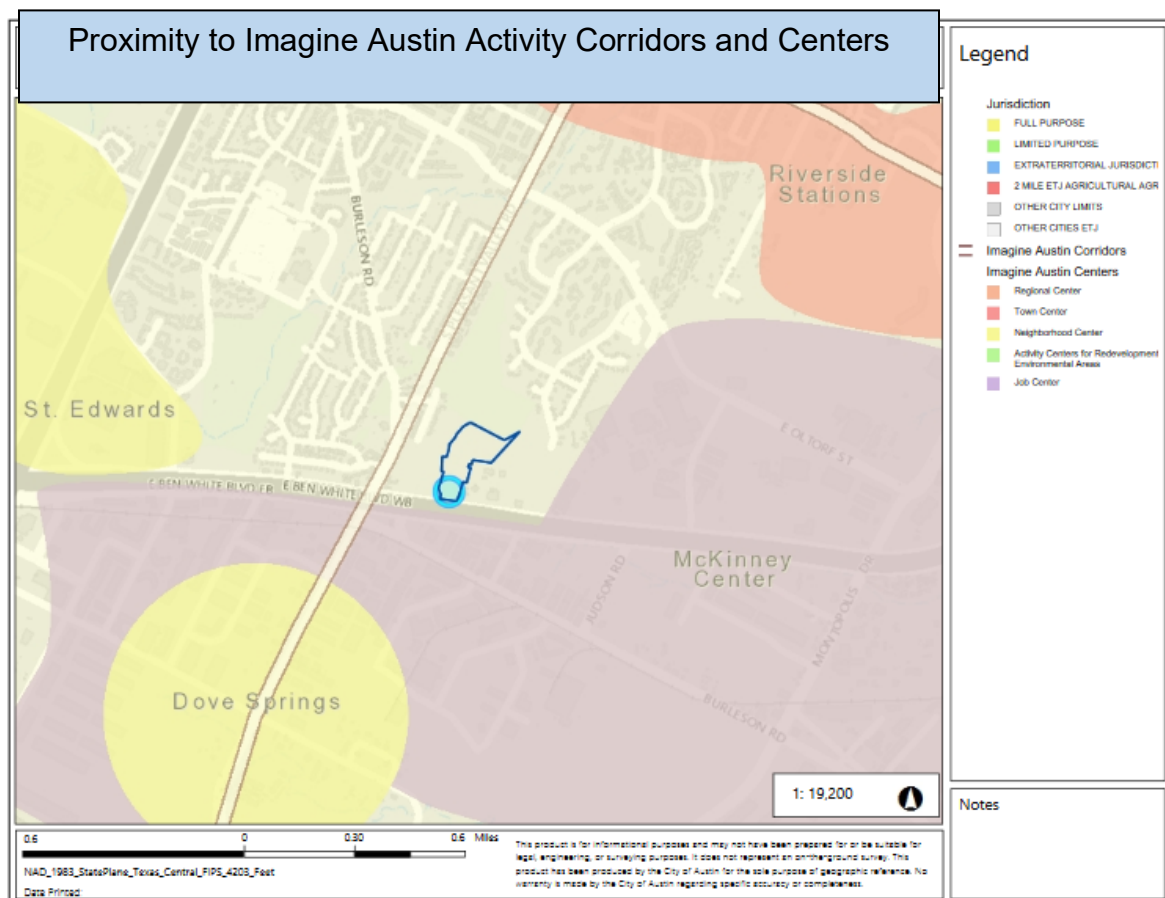
### ***IMAGINE AUSTIN PLANNING PRINCIPLES***

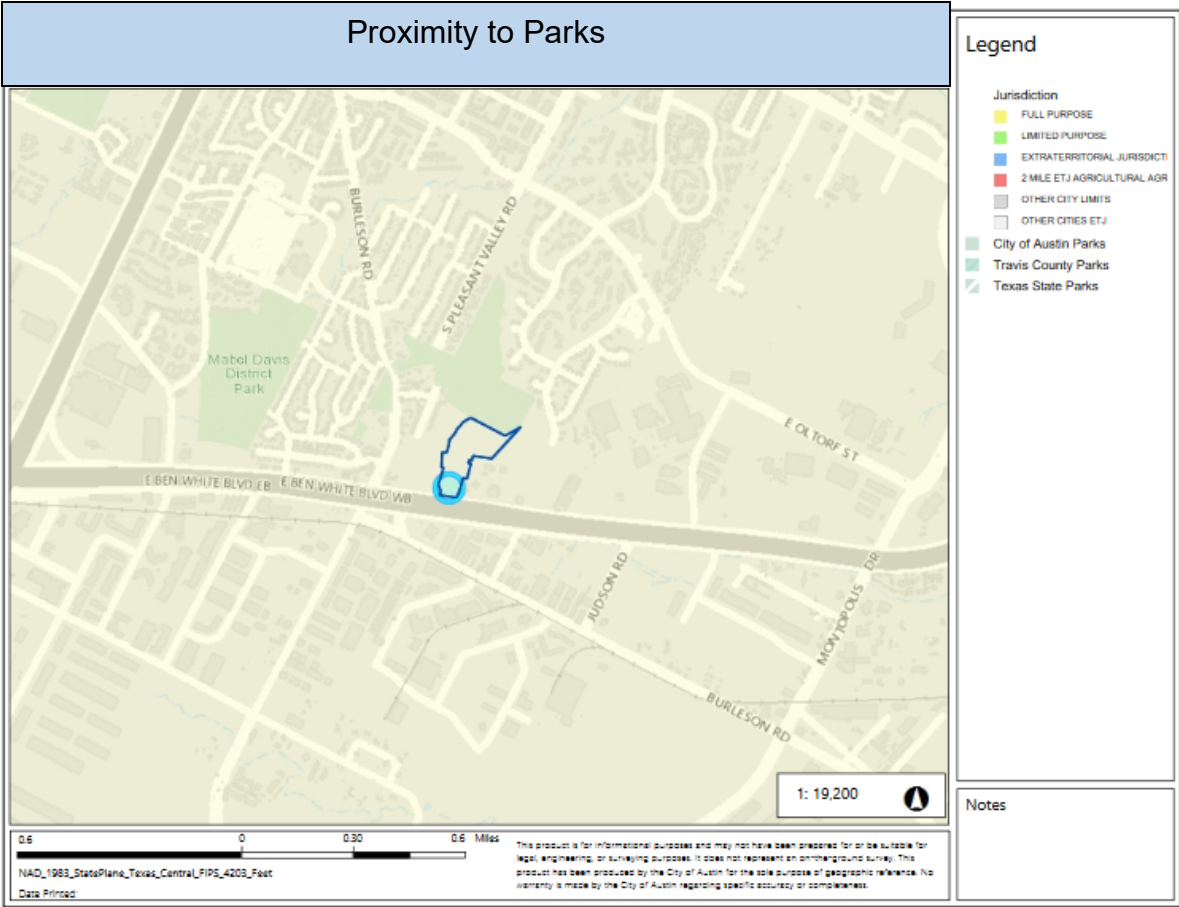
1. Create complete neighborhoods across Austin that provide a mix of housing types to suit a variety of household needs and incomes, offer a variety of transportation options, and have easy access to daily needs such as schools, retail, employment, community services, and parks and other recreation options.
  - *The property is located along E. Ben White Blvd which is not conducive for pedestrians and bicycling and has no public transportation near it. See map below. The applicant's previous proposal to build multifamily housing would*

***provide additional housing types, it is located in an industrial area that had hazardous material within 2,000 feet of the property. Please see the associated zoning case report C14-2019-0167.***

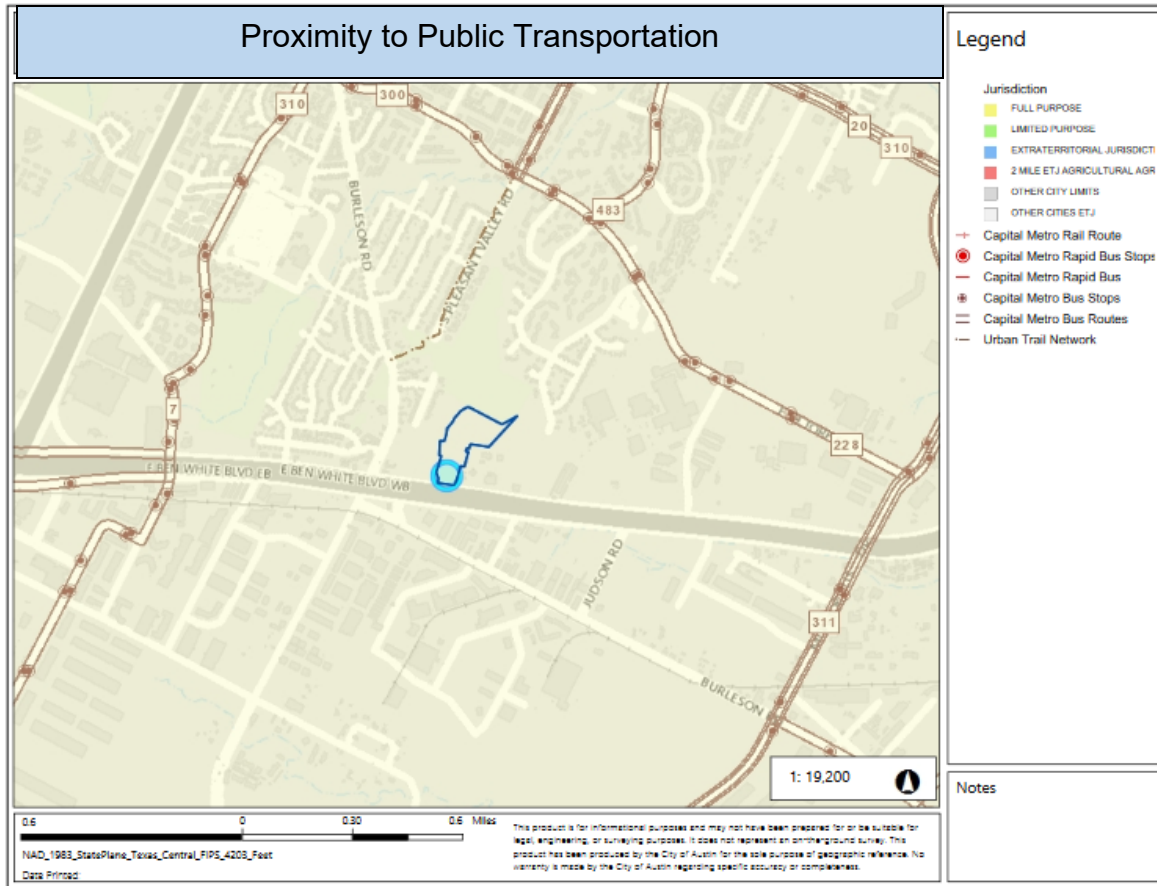
2. Support the development of compact and connected activity centers and corridors that are well-served by public transit and designed to promote walking and bicycling as a way of reducing household expenditures for housing and transportation.
  - ***The property is located along the frontage road of E. Ben White Blvd and does not have vehicular access to any other road. E. Ben White Blvd is not conducive for walking and bicycling. There does not appear to have public transportation near the property. See map below.***
3. Protect neighborhood character by ensuring context-sensitive development and directing more intensive development to activity centers and corridors, redevelopment, and infill sites.
  - ***The property is located north of the McKinney Center industrial node as identified on the Imagine Austin Growth Concept Map and less than 1000 feet east of Burleson Road, which is identified as an Activity Corridor.***
4. Expand the number and variety of housing choices throughout Austin to meet the financial and lifestyle needs of our diverse population.
  - ***The applicant's original proposal to build multifamily units on the property would have expanded the number of housing choices, this location is not suitable.***
5. Ensure harmonious transitions between adjacent land uses and development intensities.
  - ***The zoning case report, C14-2019-0167, states the property is within 2,000 feet hazardous materials and is not suitable for residential development.***
6. Protect Austin's natural resources and environmental systems by limiting land use and transportation development over environmentally sensitive areas and preserve open space and protect the function of the resource.
  - ***The property is located near a creek with floodplain and potential creek buffer.***
7. Integrate and expand green infrastructure—preserves and parks, community gardens, trails, stream corridors, green streets, greenways, and the trails system—into the urban environment and transportation network.
  - ***The applicant proposes expansion of a walking trail.***
8. Protect, preserve and promote historically and culturally significant areas.
  - ***Not applicable.***
9. Encourage active and healthy lifestyles by promoting walking and biking, healthy food choices, access to affordable healthcare, and to recreational opportunities.
  - ***The property is located along a highway which would not be conducive to walking and bicycling, although there is a proposed walking trail.***

10. Expand the economic base, create job opportunities, and promote education to support a strong and adaptable workforce.
  - *Not applicable.*
11. Sustain and grow Austin's live music, festivals, theater, film, digital media, and new creative art forms.
  - *Not applicable.*
12. Provide public facilities and services that reduce greenhouse gas emissions, decrease water and energy usage, increase waste diversion, ensure the health and safety of the public, and support compact, connected, and complete communities.
  - *Not applicable.*









## IMAGINE AUSTIN GROWTH CONCEPT MAP

### Definitions

**Neighborhood Centers** - The smallest and least intense of the three mixed-use centers are neighborhood centers. As with the regional and town centers, neighborhood centers are walkable, bikable, and supported by transit. The greatest density of people and activities in neighborhood centers will likely be concentrated on several blocks or around one or two intersections. However, depending on localized conditions, different neighborhood centers can be very different places. If a neighborhood center is designated on an existing commercial area, such as a shopping center or mall, it could represent redevelopment or the addition of housing. A new neighborhood center may be focused on a dense, mixed-use core surrounded by a mix of housing. In other instances, new or redevelopment may occur incrementally and concentrate people and activities along several blocks or around one or two intersections. Neighborhood centers will be more locally focused than either a regional or a town center. Businesses and services—grocery and department stores, doctors and dentists, shops, branch libraries, dry cleaners, hair salons, schools, restaurants, and other small and local businesses—will generally serve the center and surrounding neighborhoods.

**Town Centers** - Although less intense than regional centers, town centers are also where many people will live and work. Town centers will have large and small employers, although

fewer than in regional centers. These employers will have regional customer and employee bases, and provide goods and services for the center as well as the surrounding areas. The buildings found in a town center will range in size from one-to three-story houses, duplexes, townhouses, and rowhouses, to low-to midrise apartments, mixed use buildings, and office buildings. These centers will also be important hubs in the transit system.

**Job Centers** - Job centers accommodate those businesses not well-suited for residential or environmentally-sensitive areas. These centers take advantage of existing transportation infrastructure such as arterial roadways, freeways, or the Austin-Bergstrom International airport. Job centers will mostly contain office parks, manufacturing, warehouses, logistics, and other businesses with similar demands and operating characteristics. They should nevertheless become more pedestrian and bicycle friendly, in part by better accommodating services for the people who work in those centers. While many of these centers are currently best served by car, the growth Concept map offers transportation choices such as light rail and bus rapid transit to increase commuter options.

**Corridors** - Activity corridors have a dual nature. They are the connections that link activity centers and other key destinations to one another and allow people to travel throughout the city and region by bicycle, transit, or automobile. Corridors are also characterized by a variety of activities and types of buildings located along the roadway — shopping, restaurants and cafés, parks, schools, single-family houses, apartments, public buildings, houses of worship, mixed-use buildings, and offices. Along many corridors, there will be both large and small redevelopment sites. These redevelopment opportunities may be continuous along stretches of the corridor. There may also be a series of small neighborhood centers, connected by the roadway. Other corridors may have fewer redevelopment opportunities, but already have a mixture of uses, and could provide critical transportation connections. As a corridor evolves, sites that do not redevelop may transition from one use to another, such as a service station becoming a restaurant or a large retail space being divided into several storefronts. To improve mobility along an activity corridor, new and redevelopment should reduce per capita car use and increase walking, bicycling, and transit use. Intensity of land use should correspond to the availability of quality transit, public space, and walkable destinations. Site design should use building arrangement and open space to reduce walking distance to transit and destinations, achieve safety and comfort, and draw people outdoors.

**BACKGROUND:** The plan amendment application was filed on July 31, 2017, which is in-cycle for neighborhood planning area located on the east side of I.H—35.

The applicant proposes to change the future land use map (FLUM) from Single Family to Commercial land use, as amended on Jun 23, 2020. The majority of the property is Commercial land use, except for a small portion at the northwest corner of the property.

The applicant proposes to rezone the property from SF-2-NP and CS-CO-NP to CS-CO-NP, as amended on June 23, 2020. Please see the zoning case report C14-2019-0167 for more information.

Over the last eleven months or so, the property owner has been in negotiations with the City of Austin to possibly purchase the property which is why the case has been postponed numerous times. As of October 30, 2018 communication with the City's Real Estate Department has confirmed that the property owner has declined the City's appraised amount to purchase the property. Parks and Recreation Department and Watershed Department was looking at the property for a possible connection to Country Club Creek Trail Project and also for the critical environmental features.

**PUBLIC MEETINGS:** The ordinance required community meeting was held on September 19, 2017. Approximately 126 community meeting notices were mailed to people who have an Austin utility account or own property within 500 feet of the property, in addition to neighborhood organizations and environmental groups who requested notification on the Community Registry for this area. Eighteen people attended the meeting, including one city staff member and John Joseph, the applicant's agent.

***NOTE: This meeting was conducted when the Applicant's request was for Mixed Use land use and a zoning request for CS-MU-NP for a multifamily development.***

After a brief presentation from City staff about the planning process and the applicant's request, John Joseph made the following presentation.

Mr. Joseph said the property is currently zoned CS-CO-NP and the conditional overlay limits many uses. There has been no interest in the property for commercial use and the owner is trying to liquidate the estate. The property has limited access so the owners thought it would be better for a small or medium-size multifamily use and not commercial uses. They don't have a design for the proposed multifamily use, nor have do they have an idea of the number of dwelling units. There is no access to the north, east, or west. The only access is to the south on East Ben White Boulevard so there should be little impact on traffic on East Ben White Boulevard.

After his presentation, the following questions were asked:

Q. How many acres is the property?

A. There's a total of 12 acres, but only seven acres are usable because there is a creek on the property.

Q. What are the uses to the right of the property?

A. There's a church and a radio station.

Q. What is the net site area after the slopes?

A. That hasn't been computed yet.

Q. Is the property platted?

A. Yes, but for commercial uses. We will need to replat to remove the restrictions on the plat.

Q. Where will the access be?

A. All access will be off East Ben White Blvd.

Q. How many stories would the buildings be?

A. We don't know yet, but we would meet the compatibility standards. The church would trigger compatibility.

Q. Is there an environmental report?

A. Not yet, but one will be done.

Q. When will it be done?

A. When the planned use is determined, there will be a site plan submitted then and an environmental report will be submitted. This will happen no matter how we develop the property.

Q. I have a question about process....You submitted a plan amendment case but no zoning case.

A. We're trying to avoid spending money unless we know what you say. If we thought we could get the zoning, then we'd file the zoning case.

Q. You said there is no interest in commercial uses on the property.

A. Yes, there has been zero interest in commercial.

Q. Our neighborhood plan says that property was a former land fill.

A. I don't know if it was a landfill, but a landfill must be certified when it's closed.

Q. During the neighborhood planning process we thought the property would be best as parkland.

A. The City has not approached us. If they want to buy it, they can contact us.

Q. The setback for waterways is 100 feet?

A. It depends on the type of waterway.

Q. Why would you request Mixed Use instead of Multifamily land use?

A. Mixed Use allows for a combination of retail and residential. We're not ruling out commercial uses.

Q. What is the value of the property?

A. I don't have numbers, besides, I couldn't really tell you that.

Q. What is at the north of the property?

A. There is a gas line utility easement.

**CITY COUNCIL DATE:**

**March 1, 2018**

**ACTION:** Postponed to March 22, 2018 at the request of staff. [D. Garza – 1<sup>st</sup>; A. Kitchen – 2<sup>nd</sup>] Vote 11-0

**March 22, 2018**

**ACTION:** Postponed to April 26, 2018 at the request of staff. [D. Garza – 1<sup>st</sup>; P. Renteria – 2<sup>nd</sup>] Vote: 8-0 [G. Casar and E. Troxclair off the dais. L. Pool was absent].

**April 26, 2018**

**ACTION:** Postponed to June 28, 2018 at the request of Staff. [O. Houston – 1<sup>st</sup>; D. Garza – 2<sup>nd</sup>] Vote: 9-0 [A. Alter off the dais. E. Troxclair absent].

**June 28, 2018**

**ACTION:** Postponed to August 9, 2018 at the request of Staff. [E. Troxclair – 1<sup>st</sup>; D. Garza – 2<sup>nd</sup>] Vote: 11-0.

**August 9, 2018**

**ACTION:** Postponed to September 20, 2018 at the request of Staff. [K. Tovo- 1<sup>st</sup>; D. Garza – 2<sup>nd</sup>] Vote: 10-0 [O. Houston off the dais].

**September 20, 2018**

**ACTION:** Postponed to November 15, 2018 at the request of Staff. [L. Pool – 1<sup>st</sup>; A. Kitchen – 2<sup>nd</sup>] Vote: 10-0 [A. Alter absent].

**November 15, 2018**

**ACTION:** Postponed to December 13, 2018 at the request of Staff. [D. Garza – 1<sup>st</sup>; L. Pool – 2<sup>nd</sup>] Vote: 10-0 [E. Troxclair off the dais.

**December 13, 2018**

**ACTION:** Postponed to February 7, 2019 at the request of Staff. [A. Alter – 1<sup>st</sup>; G. Casar – 2<sup>nd</sup>] Vote: 9-0 [Mayor Adler off the dais and P. Renteria absent].

**February 7, 2019**

**ACTION:** Postponed to April 11, 2019 at the request of Staff. [P. Renteria – 1<sup>st</sup>; J. Flannigan – 2<sup>nd</sup>] Vote: 11-0.

**April 11, 2019**

**ACTION:** Postponed to June 6, 2019 at the request of Staff. [J. Flannigan – 1<sup>st</sup>; P. Renteria – 2<sup>nd</sup>] Vote: 11-0.

**June 6, 2019**

**ACTION:** Postponed to June 20, 2019 at the request of Staff. [J. Flannigan – 1<sup>st</sup>; P. Renteria – 2<sup>nd</sup>] Vote: 10-0. [N. Harper-Madison absent].

**June 20, 2019**

**ACTION:** Postponed to August 8, 2019 at the request of Staff. [L. Pool – 1<sup>st</sup>; N. Harper-Madison – 2<sup>nd</sup>] Vote: 11-0.

**August 8, 2019**

**ACTION:** Postponed indefinitely at the request of Staff. [L. Pool – 1<sup>st</sup>; P. Renteria – 2<sup>nd</sup>] Vote: 11-0.

**February 20, 2020**

**ACTION:** Postponed to April 9, 2020 at the request of Staff. [D. Garza – 1<sup>st</sup>; P. Renteria – 2] Vote: 11-0.

**April 9, 2020**

**ACTION:** Postponed to May 21, 2020 at the request of Staff. [K. Tovo-1<sup>st</sup>; P. Ellis – 2<sup>nd</sup>] Vote: 11-0

**May 21, 2020**

**ACTION:** Postponed to June 11, 2020 at the request of the Applicant.

**June 11, 2020**

**ACTION:** Postponed to July 30, 2020 at the request of the Applicant.

**July 30, 2020**

**ACTION:** (pending)

Applicant's Amended Application – June 23, 2020

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JOHN M. JOSEPH  
DIRECTOR

JMJOSEPH@COATSROSE.COM  
DIRECT: (512) 541-3593  
FAX: (512) 469-9408

June 23, 2020

**VIA EMAIL**

Ms. Kate Clark  
Planning and Zoning Department  
City of Austin  
P.O. Box 1088  
Austin, TX 78767

Ms. Maureen Meredith  
Planning and Zoning Department  
City of Austin  
P.O. Box 1088  
Austin, TX 78767

Re: 4530 East Ben White, Austin, Texas 78741 (the "Property") (Case Nos. C14-2019-0167 and NPA-2017-0021.01)

Ms. Clark and Ms. Meredith:

On behalf of our client, 4530 East Ben White Associates, LLC (the "Owner"), we formally request to amend our Zoning Application from CS-MU-CO-NP to CS-CO-NP. The proposed zoning change would amend the list of prohibited uses and eliminate the compatibility setback as currently described in Ordinance No. 000511-67 (see attached Exhibit "A"). The following uses shall be prohibited on the Property:

Agricultural Sales and Services  
Automotive Rentals  
Automotive Repair Services  
Automotive Washing (of any type)  
Campground  
Commercial Off-Street Parking  
Construction Sales and Service  
Drop-Off Recycling Collection Facility  
Equipment Sales

TERRACE 2, 2700 VIA FORTUNA, SUITE 350, AUSTIN, TEXAS 78746  
PHONE: (512) 469-7987 FAX: (512) 469-9408  
[coatsrose.com](http://coatsrose.com)

HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS | CINCINNATI  
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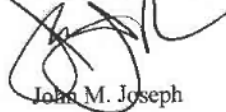
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Funeral Services  
Kennel  
Veterinary Services  
Transportation Terminal  
Indoor Entertainment  
Indoor Sports and Recreation  
Theater  
Monument Retail Sales  
Custom Manufacturing  
Community Recreation (private)  
Employee Recreation (non-profit)  
Local Utility Services  
Residential Treatment  
Transitional Housing  
Outdoor Entertainment  
Outdoor Sports and Recreation  
Pawn Shop Services  
Building Maintenance Services  
Pet Services  
Scrap and Salvage  
Club or Lodge  
Communication Service Facilities  
Community Recreation (public)  
Counseling Services  
Maintenance and Service Facilities

In addition, we formally request to amend the Neighborhood Plan Amendment Application from Mixed Use to Commercial. This request is only for the small portion of the Property that has a current Future Land Use Map ("FLUM") designation of Single Family. The FLUM for the remaining Property is currently designated as Commercial.

Thank you for your attention to this matter. Please let me know if you have any questions.

Very truly yours,



John M. Joseph

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JOHN M. JOSEPH  
DIRECTOR

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June 19, 2020

VIA EMAIL: [myeatts@austin.rr.com](mailto:myeatts@austin.rr.com)

East Riverside/Oltorf Combined  
Neighborhood Plan Contact Team ("Team")  
c/o Malcolm Yeatts

Re: Neighborhood Plan Amendment Case No. NPA-2017-0021.01  
Zoning Case No. C14-2019-0167  
4530 E. Ben White Blvd., Austin, TX 78741 (the "Property")

Dear Malcolm:

As you are aware the Planning Commission on May 12, 2020 unanimously voted to recommend denial of both our requested Neighborhood Plan Amendment and the Zoning request to add Mixed Use. As you are also aware, we entered into this letter agreement in an effort to cooperate in seeking the referenced application, in as much as the chance of obtaining City Council approval of our current request is virtually nil, I am suggesting, in an effort to salvage the possibility of the neighborhood realizing the multi-purpose hike and bike trail and the owner creating a land use menu that has a viable chance of resulting in the beneficial development of the subject property, the following modification of our agreement.

I am providing this communication to you in an effort to outline a modified agreement between the Neighborhood Contact Team and Owner to secure the support of the Neighborhood Contact Team for the proposed rezoning and neighborhood plan amendment of the Property, to remove certain compatibility restrictions, add some permitted uses, and set out a process for the establishment of a recreational easement for an approximate 1.1 acre tract for the exclusive purpose of a multi-purpose public hike and bike trail.

The following offer is an outline of a possible agreement and supersedes any prior verbal or written agreements with the East Riverside/Oltorf Combined Neighborhood Planning Area Contact Team (EROC).

Owner's Commitments:

1. To convey to the City of Austin, a non-exclusive recreational easement, upon final approval of an ordinance fulfilling No. 2 below, on the approximate 1.1 acres site for a multi-

TERRACE 2, 2700 VIA FORTUNA, SUITE 350, AUSTIN, TEXAS 78746

PHONE: (512) 469-7987 FAX: (512) 469-9408

[coatsrose.com](http://coatsrose.com)

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June 19, 2020

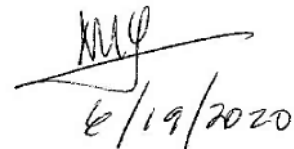
Page 2

purpose hike and bike trail along the north and west property boundary of the subject tract as shown on the attached Exhibit A.

2. Amend the current zoning Ordinance No. 000511-67 to CS-CO-NP to allow the Property to be developed as any use, or combination of uses, currently allowed in "CS" zoning, except the following uses will be prohibited:

- Agricultural Sales and Services
- Automotive Rentals
- Automotive Repair Services
- Automotive Washing (of any type)
- Campground
- Commercial Off-Street Parking
- Construction Sales and Service
- Drop-Off Recycling Collection Facility
- Equipment Sales
- Equipment Repair Services
- Funeral Services
- Kennel
- Veterinary Services
- Transportation Terminal
- Indoor Entertainment
- Indoor Sports and Recreation
- Theater
- Monument Retail Sales
- Custom Manufacturing
- Community Recreation (private)

4844-2367-5837.v1

Handwritten signature and date: 6/19/2020

June 19, 2020

Page 3

Employee Recreation (non-profit)

Local Utility Services

Residential Treatment

Transitional Housing

Outdoor Entertainment

Outdoor Sports and Recreation

Pawn Shop Services

Building Maintenance Services

Pet Services

Scrap and Salvage

Club or Lodge

Communication Service Facilities

Community Recreation (public)

Counseling Services

Maintenance and Service Facilities

3. Make application for the removal, or satisfactory amendment, of the compatibility restriction contained in zoning Ordinance No. 000511-67, attached as Exhibit B.

4. To dedicate, by appropriate means of conveyance, the easement referenced above upon the approval of the requested zoning, variances and the waiver of compatibility, whichever occurs last in time.


East Riverside/Oltorf Combined Neighborhood Plan Contact Team Commitments:

1. To support the zoning amendment to CS-CO-NP to allow the Property to be developed as any use currently allowed in "CS" zoning, except the prohibited uses listed in Number 2 above.

2. To support the pending Neighborhood Plan Amendment.

3. To support the removal or satisfactory amendment of the referenced compatibility restriction.

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6/19/2020

June 19, 2020

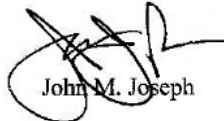
Page 4

4. Attend all board and commission meeting to support the applications.
5. Attend all Planning Commission meetings to support the applications.
6. Attend all City Council meetings to support the applications.

If this outline of the basic terms of an agreement is acceptable to the Team, please indicate by having the appropriate member indicate the Team's acceptance by signing in the place provided for that purpose below. This outline of terms replaces and supersedes any prior outline of agreement and/or agreement between the parties. If for any reason the amended zoning request, variances, and/or waivers are denied for any reason, this outline of agreement shall expire and neither party shall have any rights or responsibilities with respect thereto.

If you, or the Team, should have any questions please do not hesitate to contact me. Your cooperation is very much appreciated.

Very truly yours,



John M. Joseph

Accepted:

East Riverside/Oltorf Combined Neighborhood Plan Contact Team

\_\_\_\_\_  
Malcolm Yeatts, Chair

Date: \_\_\_\_\_

June 19, 2020  
Page 4

4. Attend all board and commission meeting to support the applications.
5. Attend all Planning Commission meetings to support the applications.
6. Attend all City Council meetings to support the applications.

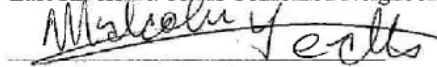
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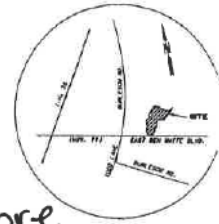
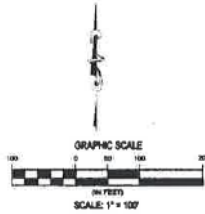
Accepted:  
East Riverside/Oltorf Combined Neighborhood Plan Contact Team

  
Malcolm Yeatts, Chair  
Date: June 19 2020

Doc #200100028

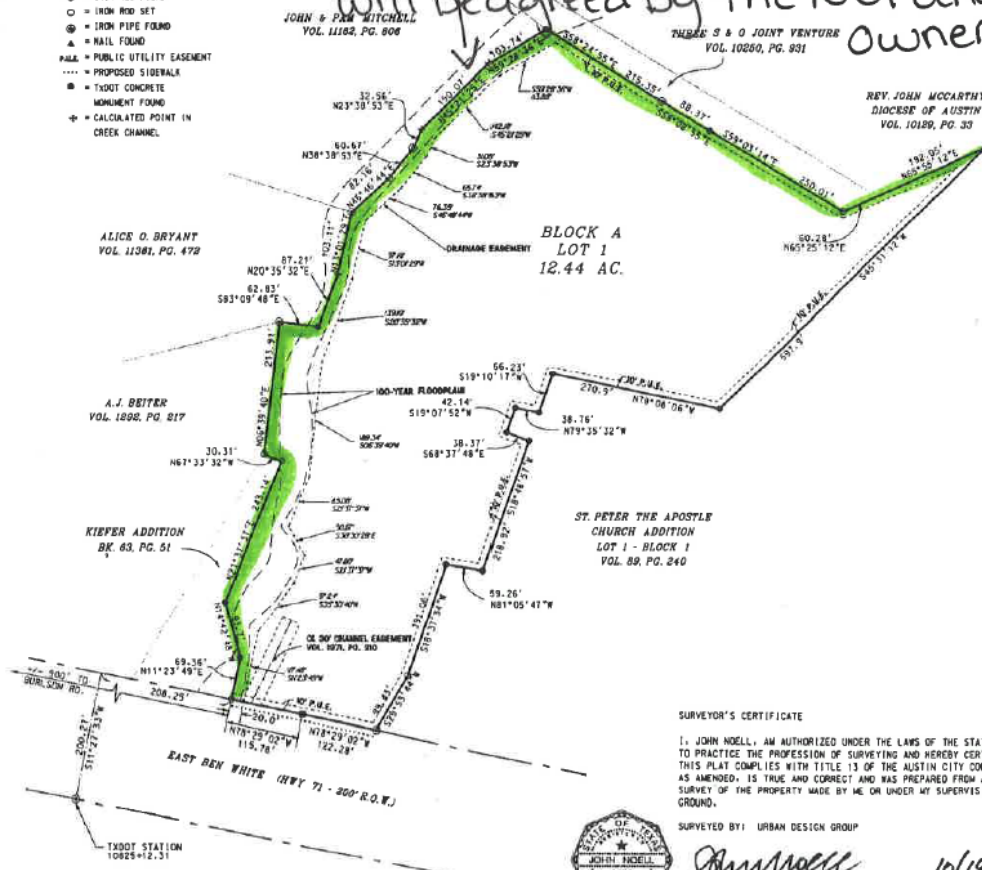
# BURLESON - BEN WHITE SUBDIVISION

SUBMITTAL DATE: NOVEMBER 16, 1999



*Hike and Bike Trail Easement will be no more than 1 acre. Actual configuration will be agreed by the NCT and Owner.*

- LEGEND**
- = IRON ROD FOUND
  - = IRON ROD SET
  - ⊙ = IRON PIPE FOUND
  - ▲ = NAIL FOUND
  - PALE = PUBLIC UTILITY EASEMENT
  - = PROPOSED SIDEWALK
  - = TxDOT CONCRETE MONUMENT FOUND
  - ⊕ = CALCULATED POINT IN CREEK CHANNEL



**SURVEYOR'S CERTIFICATE**

I, JOHN NOELL, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH TITLE 13 OF THE AUSTIN CITY CODE, OF 1991, AS AMENDED, IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION ON THE GROUND.

SURVEYED BY: URBAN DESIGN GROUP



JOHN NOELL, R.P.L.S., NO. 2433  
URBAN DESIGN GROUP  
1640 STONERIDGE ROAD, E101  
AUSTIN, TEXAS 78746

10/19/00  
DATE

**UDG**  
Urban Design Group

UDG NO. 96027

C8-99-210

**EXHIBIT**  
**"A"**



Neighborhood Plan Amendment

**SUMMARY LETTER**

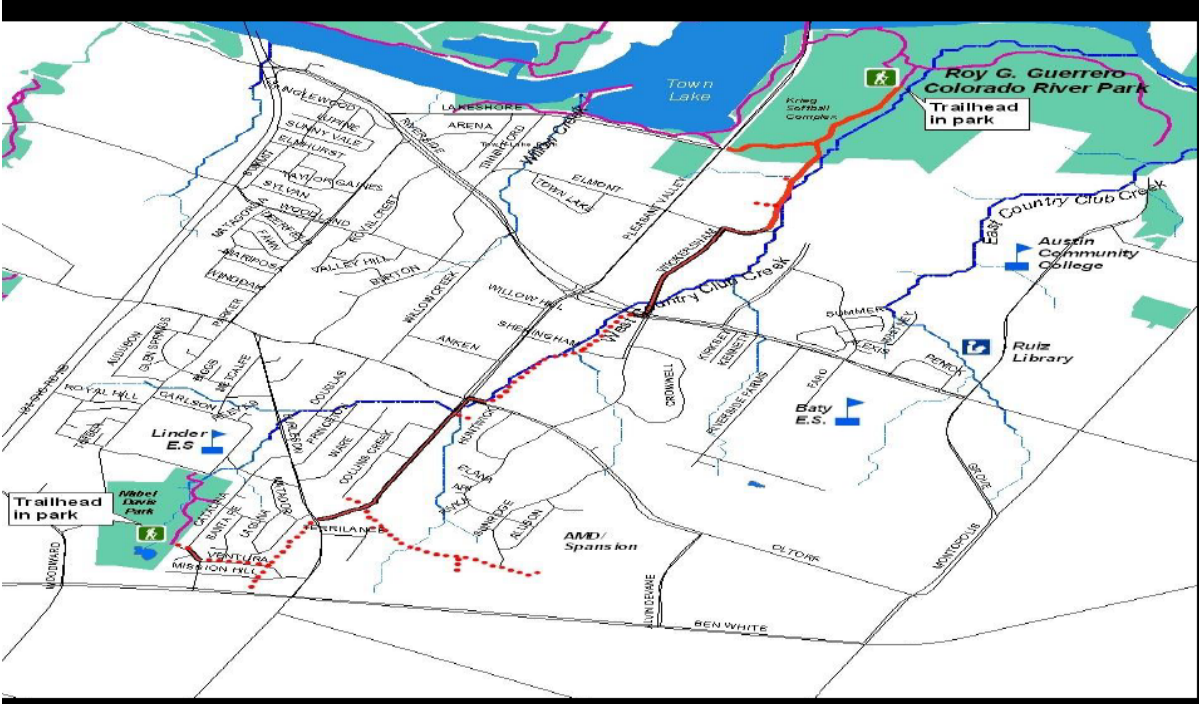
The Applicant would like to amend the FLUM from Commercial to Mixed Use to allow for greater flexibility on future development of the property. The change to the FLUM would create a buffer area between the existing single family residences to the east and the civic uses to the west. The Applicant intends to amend the zoning from CS-CO-NP to CS-MU-CO-NP, and will be submitting a Zoning Application in the near future



**Subject:** NPA-2017-0021.01

The EROC Contact Team has been working with the owner of the property at 4530 East Ben White for two years to reach an agreement on land use. The EROC Contact Team has voted to support this NPA with the understanding that the property owner will work with the city staff to create a Recreational Use Easement on the property. The Contact Team would like the Planning Commission to include in their recommendation to Council the agreement that the EROC Contact Team and the owner have made with the owner that will improve pedestrian connectivity in this area. This agreement includes public easement along the boundaries of the property. The EROC Contact Team would like City Council to direct the City Manager to allocate resources to create a Recreational Use Easement on this property in accordance with the agreement. Attached are presentations on the connectivity improvements and the Agreement with Attachments. Please include this information in the folder for the Planning Commissioners.

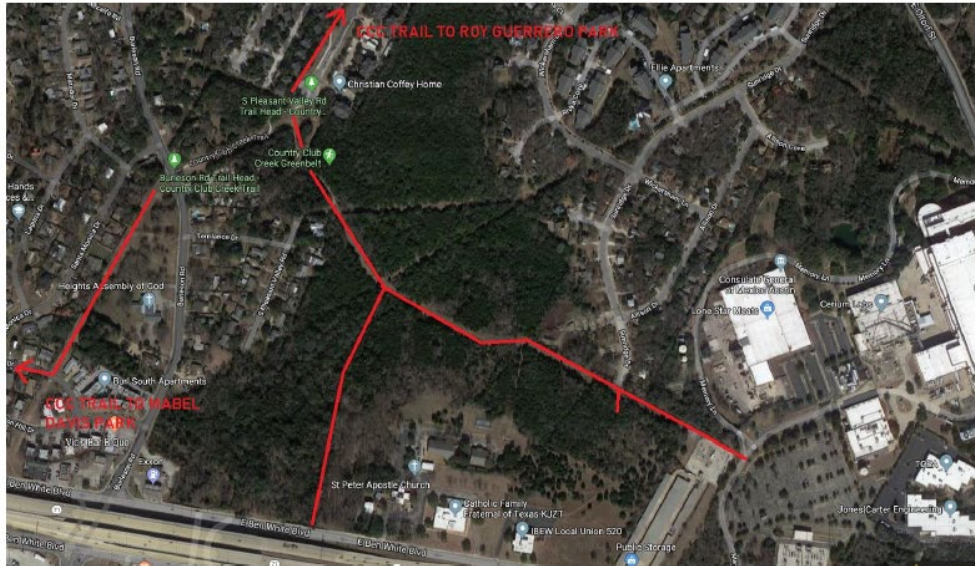
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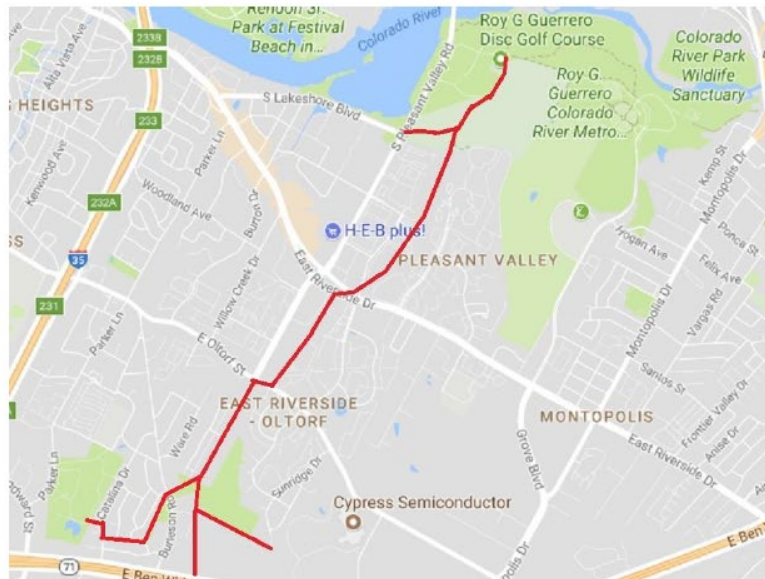
COUNTRY CLUB CREEK GREENBELT



## NEW LINKS TO THE CCC TRAIL



## CCC TRAIL FROM BEN WHITE TO THE RIVER





---

## EROC REQUEST TO COUNCIL

- Direct the City Manager to allocate the resources to work with the owner of the 4530 E. Ben White property to create a Recreational Use Easement along the north and west borders of the property.

Previous Agreement with the EROC NPCT

# COATS | ROSE

A PROFESSIONAL CORPORATION

JOHN M. JOSEPH  
DIRECTOR

JMJOSEPH@COATSIROSE.COM  
DIRECT: (512) 541-3593  
FAX: (512) 469-9408

August 30, 2019

VIA EMAIL: [myeatts@austin.rr.com](mailto:myeatts@austin.rr.com)

East Riverside/Oltorf  
Neighborhood Plan Contact Team ("Team")  
C/O Malcolm Yeatts

Re: Neighborhood Plan Amendment Case No. NPA-2017-0021.01  
Address: 4530 E. Ben White Blvd., Austin, TX 78741

Dear Malcolm:

As you know I represent, 4530 East Ben White Associates, LLC ("Owner"), the owner of the above referenced property and am representing it in the pending Neighborhood Plan Amendment. I am providing this communication to you in an effort to outline an agreement between the Neighborhood Contact Team and Owner to secure the support of the Neighborhood Contact Team for the Neighborhood Plan Amendment and a concurrent zoning application to add "mixed use" to the current zoning, remove certain compatibility restrictions, add some permitted uses and set out a process for the conveyance of 1.1 acres for the purpose of a public hike and bike trail/Recreational Use Easement.

The following offer is an outline of a possible agreement.

#### Owner's Commitments


1. To allow the filing of the appropriate documentation conveying a non-exclusive easement, upon final approval of an ordinance fulfilling No. 2 below, of an approximate 1.1 acres site for a multi-purpose hike and bike trail along the north and west property boundary of the subject tract to the East Riverside/Oltorf Neighborhood Association (ERONA and EROC), as shown on the attached Exhibit "A".

2. Change the zoning of the property to CS-MU to allow between 36 and 54 units per acre of market rate residential rental properties allowing up to 5% of the units to be offered to families at 60% or less median family income, with height limited to 4 stories or 60 feet.

3. Support the amendment of the prohibited uses in Ordinance No. 000511-67 (Exhibit "B") to the following:

BARTON OAKS PLAZA, 901 S. MOPAC EXPWY, BLDG 1, STE 500, AUSTIN, TEXAS 78746  
PHONE: (512) 469-7987 FAX: (512) 469-9408  
[coatsrose.com](http://coatsrose.com)


HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS | CINCINNATI  
4820-8138-7682.v1

  
10/9/2019

August 30, 2019  
Page 2

Agricultural Sales and Service Automotive Rentals  
Automotive Repair Services Automotive Sales  
Automotive Washing (of any type)  
Campground  
Commercial Off-Street Parking  
Construction Sales and Service  
Drop-Off Recycling Collection Facility  
Equipment Sales  
Equipment Repair Services  
Funeral Services  
Indoor Sports and Recreation  
Laundry Services  
Monument Retail Sales  
Custom Manufacturing  
Community Recreation (private)  
Employee Recreation (non-profit)  
Local Utility Services  
Residential Treatment  
Transitional Housing  
Outdoor Entertainment  
Outdoor Sports and Recreation  
Pawn Shop Services  
Building Maintenance Services  
Pet Services

4820-8138-7682.v1

  
10/9/2019

August 30, 2019

Page 3

Convenience Storage

Theater

Vehicle Storage

Veterinary Services

Indoor Entertainment

Kennels

Scrap and Salvage

Club or Lodge

Communication Service Facilities

Community Recreation (public)

Counseling Services

Maintenance and Service Facilities

Safety Services

Transportation Terminal

4. As long as the same can be accomplished without the necessity for a formal site development permit application, make application to the City seeking the appropriate variances necessary to allow for the construction of a multi-purpose hike and bike trail along the north and west property boundary of the subject tract.

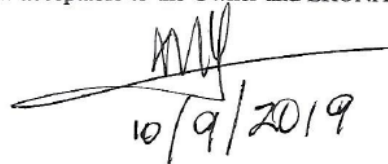
5. Make application for the waiver of compatibility standards along the east boundary of the property to allow for development within 25 feet of the east property line with a height limited to 4 stories or 60 feet.

6. Make application for the removal, or satisfactory amendment, of the compatibility restriction contained in zoning Ordinance No. 000511-67.

7. Make application for the removal of Note No. 2 on the Burleson-Ben White Subdivision Plat (Doc. No. 20010028) that states, "Development of this property is restricted to uses other than residential", (Exhibit "C").

8. Place in escrow, with an agreed upon title company or other escrow acceptable to the Owner and ERONA and EROC, the multi-purpose hike and bike trail easement upon the delivery to the agreed upon title company or other escrow acceptable to the Owner and ERONA

4820-8138-7682.v1

A handwritten signature, possibly "MVF", is written over a horizontal line. Below the signature, the date "10/9/2019" is handwritten.

August 30, 2019  
Page 4

and EROC, of the signed agreement with the neighborhood and official resolution of the East Riverside/Oltorf Neighborhood Plan Contact Team.

9. To dedicate, by appropriate means of conveyance, the easement referenced above upon the approval of the requested zoning, variances and the waiver of compatibility, whichever occurs last in time.

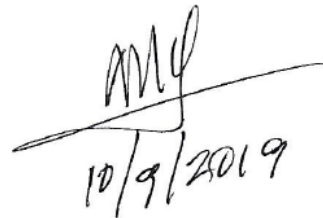
East Riverside/Oltorf Neighborhood Plan Contact Team Commitments.

1. To consider, approve, execute and deliver to the title company the agreement.
2. To support the pending Neighborhood Plan Amendment to Mixed Use.
3. To support a zoning application to change the current zoning to (either add "MU - mixed use" or change the current zoning to MF-4 with height limited to four (4) stories or sixty (60') feet.
4. To support the amendment of the prohibited uses listed in Ordinance No. 000511-67.
5. To support the removal of Note No. 2 on the Burleson-Ben White Subdivision Plat (Doc. No. 20010028) that states, "Development of this property is restricted to uses other than residential".
6. To support the removal or satisfactory amendment of the (church) compatibility restriction
7. Attend all board and commission meeting to support the applications.
8. Attend all Planning Commission meetings to support the applications.
9. Attend all City Council meetings to support the applications.

If this outline of the basic terms of an agreement is acceptable to the Team, please indicate by having the appropriate member indicate the Team's acceptance by signing in the place provided for that purpose below.

If you, or the Team, should have any questions please do not hesitate to contact me.

4820-8138-7682.v1



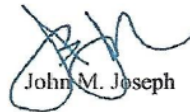
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August 30, 2019  
Page 5

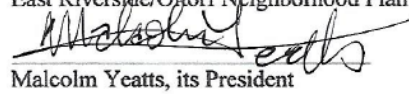
Your cooperation is very much appreciated.

Very truly yours,



John M. Joseph

Accepted:  
East Riverside/Olton Neighborhood Plan Contact Team



Malcolm Yeatts, its President

CHAIR ERNC CONTACT TEAM

August \_\_\_\_, 2019

October 9 2019

## SUBMITTAL DATE: NOVEMBER 16, 1999



Hike and Bike Trail  
Easement will be no more  
than 1 acre. Actual configuration  
will be agreed by the NCT and  
Owner.

JOHN & PAUL MITCHELL  
VOL. 11162, PG. 908

THREE S & O JOINT VENTURE  
VOL. 10550, PG. 931

LOCATION MAP  
SEP 10, 2012

● = IRON ROD FOUND  
 ○ = IRON ROD SET  
 ⊗ = IRON PIPE FOUND  
 ▲ = NAIL FOUND  
 PALE = PUBLIC UTILITY EASEMENT  
 .... = PROPOSED SIDEWALK  
 ■ = TYPED CONCRETE  
 MONUMENT FOUND  
 + = CALCULATED POINT IN  
 CREEK CHANNEL

KIEFER ADDITION

ST. PETER THE APOSTLE  
CHURCH ADDITION  
LOT 1 - BLOCK 1  
VOL. 89, PG. 240

THREE S & O JOINT VENTURE  
VOL. 10250, PG. 931

REV. JOHN MCCARTHY  
DIOCESE OF AUSTIN  
VOL. 10129, PG. 33

I, JOHN NOELL, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH TITLE 13 OF THE AUSTIN CITY CODE, OF 1981, AS AMENDED, IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION ON THE GROUND.

*John Nobell*  
JOHN NOBELL, R.P.L.S. NO. 2433  
URBAN DESIGN GROUP  
1660 STONERIDGE ROAD, E101  
AUSTIN, TEXAS 78746

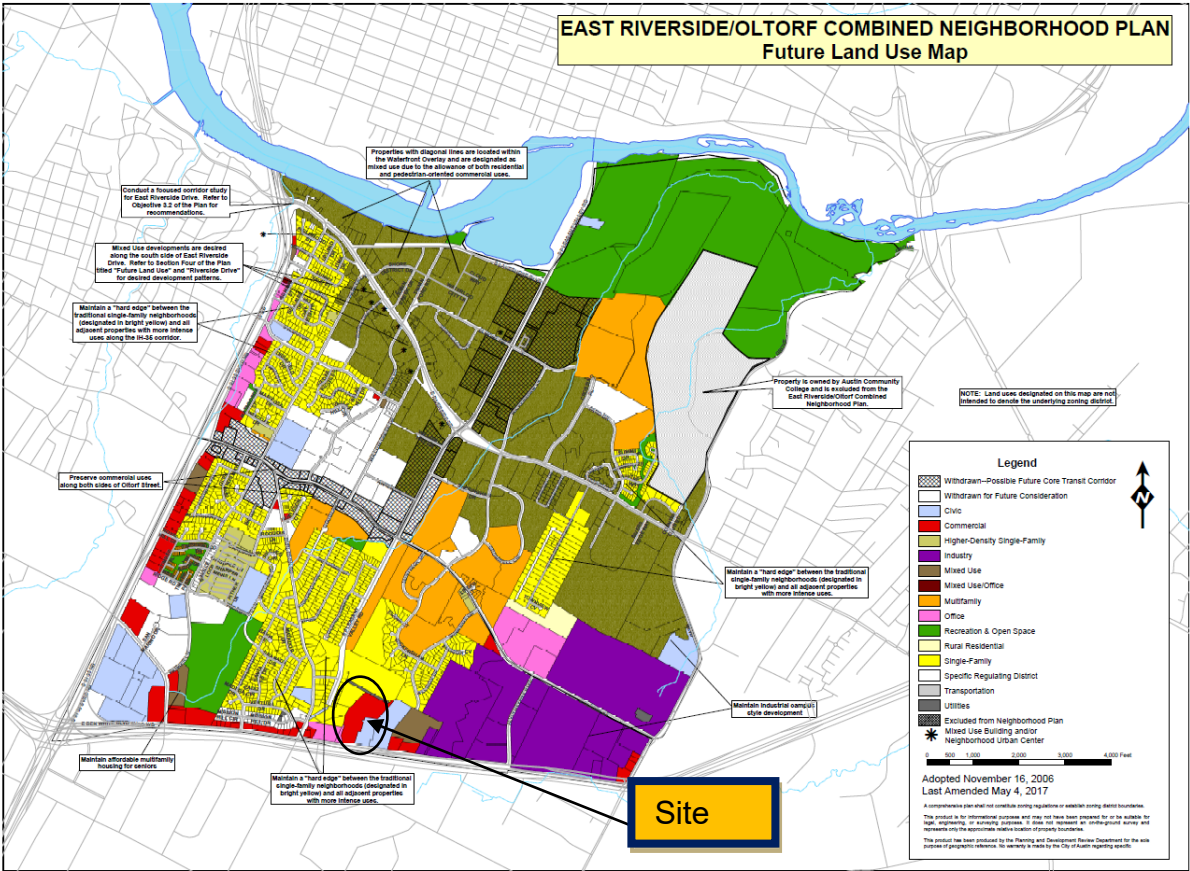
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DATE



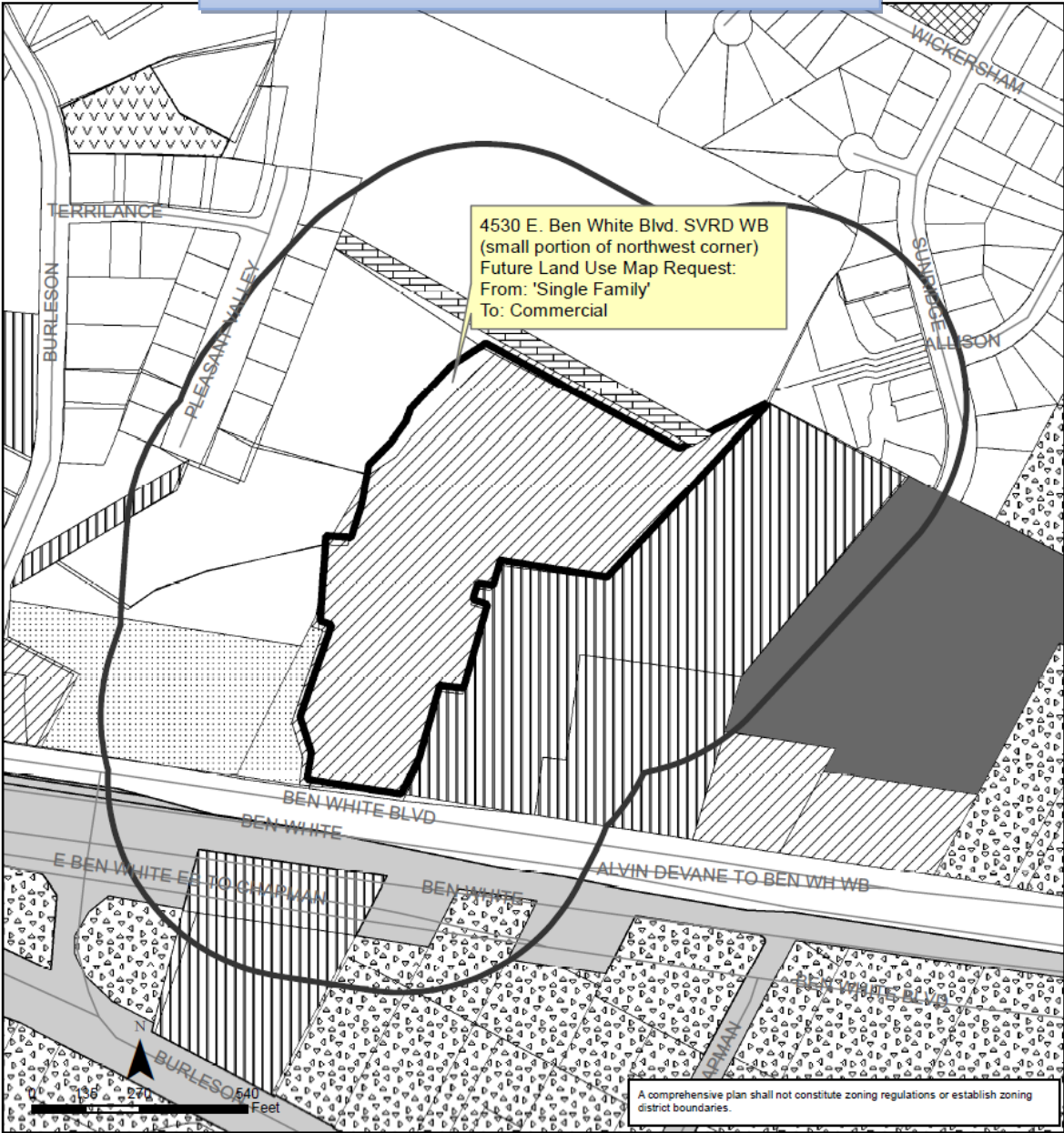
UDG NO. 96027

C8-99-210

**EXHIBIT**  
**"A"**




Revised FLUM Request



East Riverside/Oltorf Combined Neighborhood Planning Area  
NPA-2017-0021.01

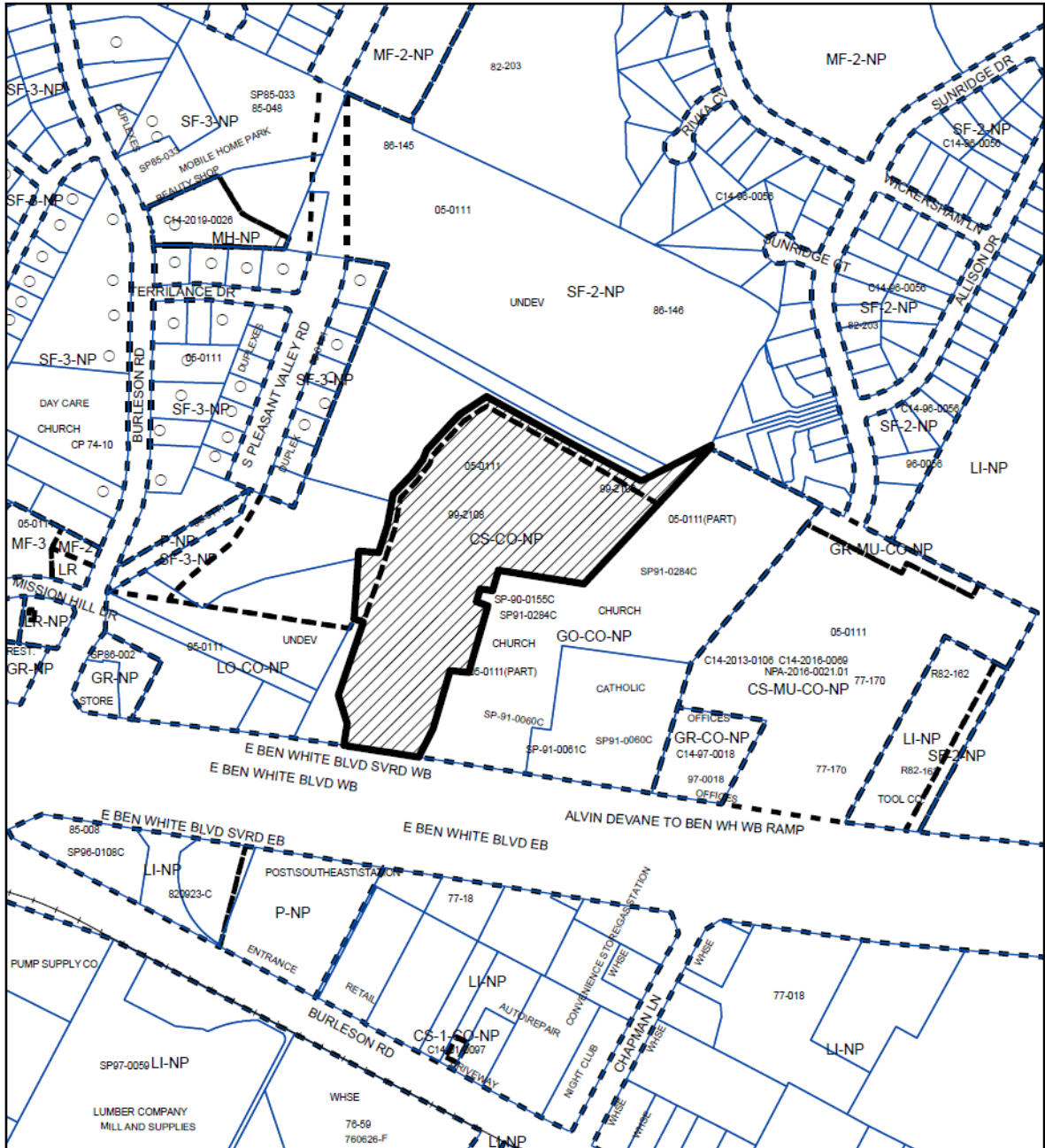
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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




 City of Austin  
Planning and Zoning Department  
Created on 7/9/2020, by: meredithm

Future Land Use	
500 ft. notif. boundary	Industry
Single-Family	Civic
Higher-Density Single-Family	Recreation & Open Space
Multi-Family	Transportation
Commercial	Utilities
Mixed Use	Excluded from FLUM
Office	Subject Property





1" = 400'

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

**ZONING**  
ZONING CASE#: C14-2019-0167

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Created: 12/13/2019

