

ZONING CHANGE REVIEW SHEET

CASE: C14-2020-0143
12121 N. IH 35 Rezoning

DISTRICT: 1

ZONING FROM: GR-CO

TO: MF-4

ADDRESS: 12121 North IH 35 Northbound

SITE AREA: 11.845 acres

PROPERTY OWNER:
Dupius Investments, Ltd.
(Daniel McCormack)

AGENT:
John M. Joseph
(Coats Rose)

CASE MANAGER: Heather Chaffin (512-974-2122, heather.chaffin@austintexas.gov)

STAFF RECOMMENDATION:

Staff supports the Applicant's request for rezoning to MF-4.

For a summary of the basis of staff's recommendation, see case manager comments on page 2.

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

July 6, 2021: To grant MF-4 zoning as recommended by Staff, with the condition that Compatibility Standards apply if not automatically triggered by Code. (7-0) [T. Bray- 1st, A. Denkler- 2nd; J. Kiolbasa- off dais; C. Acosta, N. Barrera-Ramirez, and H. Smith-absent]

June 1, 2021: To be postponed to July 6, 2021 as requested by Neighborhood, approved on consent.

CITY COUNCIL ACTION:

November 18, 2021:

October 21, 2021: To grant postponement to November 18, 2021 as requested by Neighborhood, on consent.

September 30, 2021: To grant postponement to October 21, 2021 as requested by Staff, on consent.

ORDINANCE NUMBER:

ISSUES:

At the time of the Zoning and Platting Commission hearing, it was unclear if the adjacent residential properties would trigger Compatibility Standards. Since that time, Staff has confirmed that the residential properties do trigger Compatibility Standards. The properties are zoned SF-6-CO but are platted and developed as single family residential houses, not detached townhouse/condominium units.

CASE MANAGER COMMENTS:

The subject property is located on the east side of IH 35 and is bounded by VFW Road to the north and Bowery Trail to the south. The undeveloped parcel is zoned GR-CO with the conditional overlay limiting the property to a maximum of 2,000 vehicle trips per day (v.p.d) and prohibiting numerous commercial land uses. These land uses are listed in the attached ordinance. ***Please see Exhibit C- Zoning Ordinance.*** Across VFW Road to the north is the VFW lodge which is zoned GO-CO. Also across the road are two multifamily developments that are zoned MF-3-CO. Immediately east and southeast of the rezoning tract is land zoned SF-6-CO that is developed with single family residential properties. Across Bowery Trail to the south is undeveloped land zoned GO. Across IH 35 to the west are commercial properties zoned LI, including headquarter offices of the Texas Council on Environmental Quality (TCEQ). ***Please see Exhibits A and B- Zoning Map and Aerial Exhibit.***

Staff supports the requested MF-4 zoning. MF-4 zoning is compatible with nearby multifamily and single family land uses. The applicant has stated their intent to construct approximately 330 market-rate apartments, providing additional housing opportunities in the area.

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the goals and objectives of the City Council.*
2. *Zoning should be consistent with approved and existing residential densities.*
3. *Granting of the request should result in an equal treatment of similarly situated properties.*

The addition of multifamily units at this location will increase housing opportunities and be consistent with nearby residential properties.

Staff has received correspondence in opposition to the rezoning request. ***Please see Exhibit D- Correspondence.***

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR-CO	Undeveloped
North	GO-CO, MF-3-CO	Club/lodge, Multifamily residential
South	SF-6-CO, GO	Single family residential, Undeveloped
East	SF-6-CO	Single family residential
West	LI	Administrative/business office

NEIGHBORHOOD PLANNING AREA: N/ATIA: Deferred to time of site plan, if triggered.WATERSHED: Walnut Creek (suburban)NEIGHBORHOOD ORGANIZATIONS:

Friends of Copperfield Nature Trails
 Yager Community
 Homeless Neighborhood Association
 North Growth Corridor Alliance
 Friends of Austin Neighborhoods
 Neighborhood Empowerment Foundation
 SELTexas

TechRidge Neighbors
 Sierra Club
 Pflugerville ISD
 Bike Austin
 Austin Neighborhoods Council
 Austin Lost and Found Pets

AREA CASE HISTORIES:

There are no rezoning cases in the past 10 years in the vicinity.

EXISTING STREET CHARACTERISTICS:

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
IH 35 SVRD NB	104'	Defer to TxDOT	28'	4	No	Yes	Yes
VFW RD	58'	Existing Row	17'	1	No	No	Yes
BOWERY TRL	75'	Existing Row	40'	1	Yes	No	Yes

ADDITIONAL STAFF COMMENTS:Comprehensive Planning

Connectivity: There are no public sidewalks located along this portion of the IH 35 service road or along the narrow rural road of VFW Road. Bowery Trail does have public sidewalks on both sides of the road, leading into a single-family subdivision. The closest public transit stop is located 0.70 of a mile northeast but has no public sidewalks to reach it. The mobility and connectivity options available in the area are below average. All trips would need to be done by a car.

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

- ☐ LUT P5. Create healthy and family-friendly communities through development that includes a mix of land uses and housing types and affords realistic opportunities for transit, bicycle, and pedestrian travel and provides both community gathering spaces, parks and safe outdoor play areas for children.
- ☐ LUT P7. Encourage infill and redevelopment opportunities that place residential, work, and retail land uses in proximity to each other to maximize walking, bicycling, and transit opportunities.

- 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.
- HN P10. Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to healthy food, schools, retail, employment, community services, and parks and recreation options.

Over the last decade, a number of developers have built large multifamily residential uses (senior living housing included) along the IH 35 service road to take advantage of the easy access onto IH 35. Multifamily complexes being located along IH-35 is not ideal because of the detrimental effects relating to pollution, noise, and the lack of connectivity and mobility options unless their residents have a car.

Based on the Imagine Austin text and policies above, this project appears to partially support the policies due to the lack of connectivity and mobility options in the area.

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

2. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

3. According to floodplain maps there is a floodplain within or adjacent to the project location.

Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within the project location.

4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

5. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

6. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2-year storm on site.

Site Plan

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

Parks & Recreation

PR1: Parkland dedication will be required for the new residential units proposed by this development, multifamily with MF-4 zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. There is

currently a gap in the Walnut Creek Greenbelt south of Bowery Lane. The Parks and Recreation Department (PARC) would consider the offsite dedication of this section of Walnut Creek, from the existing parkland to IH-35, toward satisfying the requirement at time of permitting (whether subdivision or site plan). Such a connection would improve parkland connectivity, and satisfy an acquisition need for Walnut Creek, a recommendation identified in the Parks and Recreation Department's Long Range Plan. Should there be any remaining fees in-lieu, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2). If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: thomas.rowlinson@austintexas.gov.

Transportation

The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, identifies sufficient right-of-way for VFW Road and Bowery Trail. Sufficient right-of-way for IH 35 is deferred to TxDOT. Traffic impact analysis was waived, TIA determination deferred until site plan, when land use and intensities will be finalized.

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
IH 35 SVRD NB	104'	Defer to TxDOT	28'	4	No	Yes	Yes
VFW RD	58'	Existing Row	17'	1	No	No	Yes
BOWERY TRL	75'	Existing Row	40'	1	Yes	No	Yes

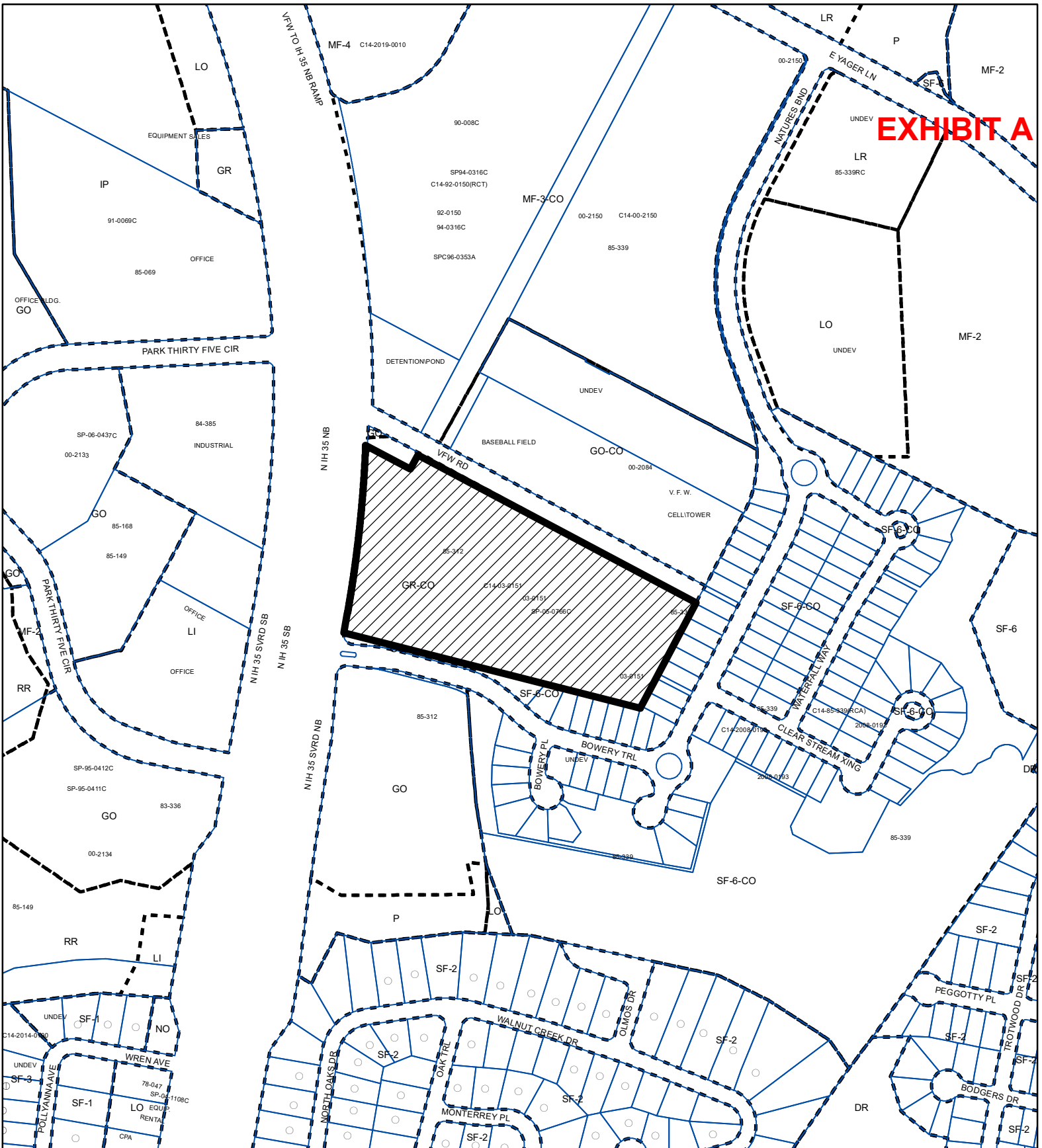
Water Utility

AW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance. Based on current public infrastructure configurations this site is in an area with capacity concerns, and it appears that service extension requests (SER) will be required to provide service to this lot. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. Zoning Ordinance
- D. Correspondence

EXHIBIT A



ZONING

ZONING CASE#: C14-2020-0143



 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.

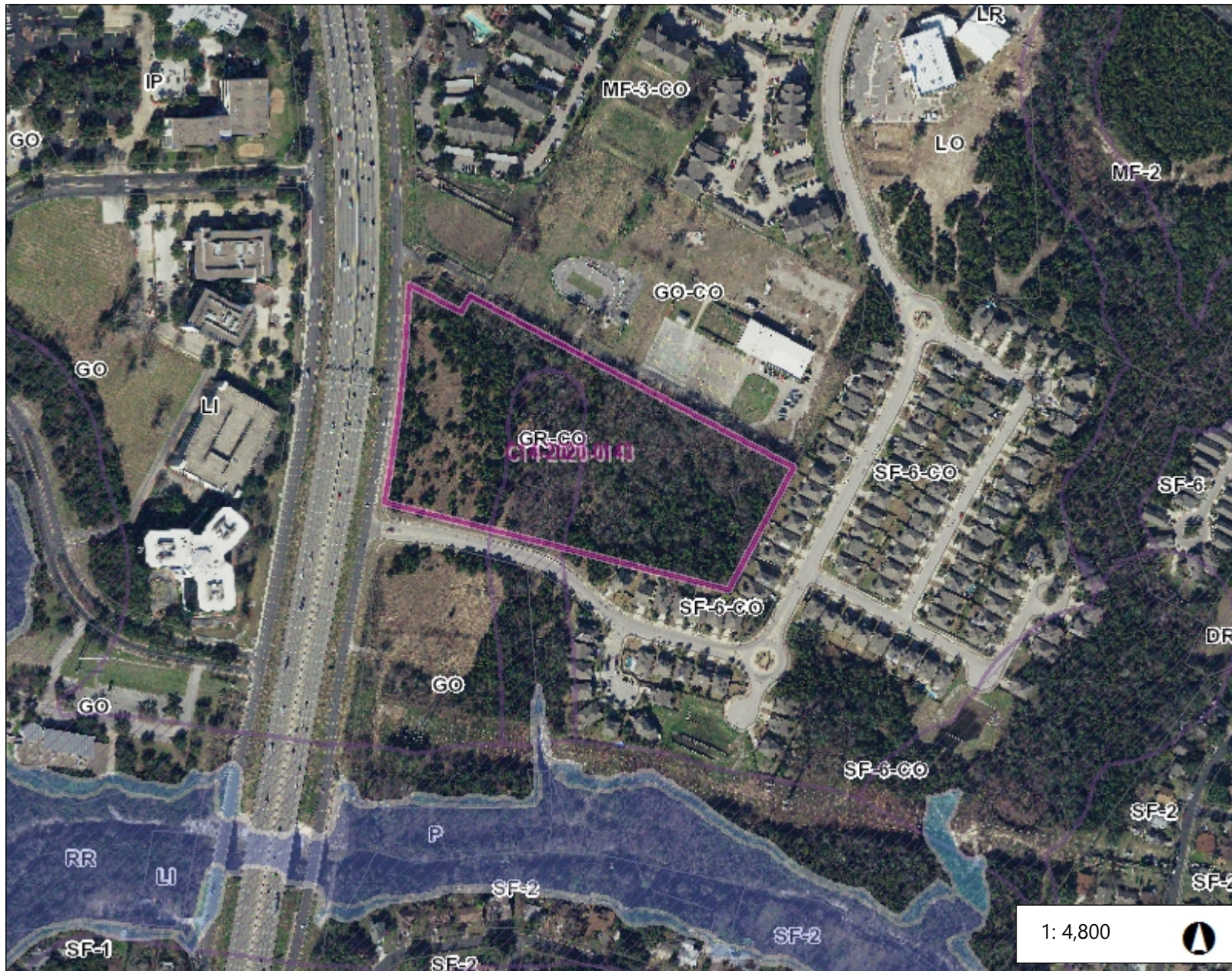


Created: 12/9/2020



Property Profile

Legend **EXHIBIT B**



- Zoning Review Cases- IN REV
- Fully Developed Floodplain
 - COA Fully Developed 25-Year
 - COA Fully Developed 100-Year
 - COA Master Plan 25-Year
 - COA Master Plan 100-Year
 - 100-Year (Detailed-AE)
 - 100-Year (Shallow-AO,AH)
 - 100-Year (Approx-A)
- Creek Buffers/Waterway Setba
 - Critical Water Quality Zone
 - Water Quality Transition Zone
- Zoning Text

Notes

0.2 0 0.08 0.2 Miles

NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet

Date Printed:

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

ORDINANCE NO. 040108-Z-5

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 12301 IH-35 NORTH FROM GENERAL OFFICE (GO) DISTRICT AND LIMITED OFFICE (LO) DISTRICT TO COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) 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 general office (GO) district and limited office (LO) district to community commercial-conditional overlay (GR-CO) combining district on the property described in Zoning Case No.C14-03-0151, on file at the Neighborhood Planning and Zoning Department, as follows:

Tract One: A 11.017 acre tract of land, more or less, out of the J.A.G. Brooke Survey No. 79 and the Louis Fritz Survey No. 291, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, and

Tract Two: A 0.984 acre tract of land, more or less, out of the J.A.G. Brooke Survey No. 79, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance, (the "Property")

locally known as 12301 IH-35 North, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "C".

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

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

2. The following uses are prohibited uses of the Property:

Cultural services	Day care services (commercial)
Day care services (general)	Day care services (limited)
Guidance services	Hospital services (limited)
Local utility services	Private primary educational facilities
Private secondary educational facilities	Public primary educational facilities
Public secondary educational facilities	College and university facilities
Communication service facilities	Community recreation (private)
Community recreation (public)	Congregate living
Residential treatment	Safety services
Art and craft studio (limited)	Business or trade school
Business support services	Communication services
Drop-off recycling collection facility	Exterminating services
Financial services	Food sales
Funeral services	General retail sales (convenience)
General retail sales (general)	Indoor entertainment
Indoor spots and recreation	Medical offices (not over 5,000 s.f.)
Medical offices (over 5000 s.f.)	Outdoor sports and recreation
Pawn shop services	Personal improvement services
Personal services	Pet services
Professional office	Research services
Restaurant (limited)	Restaurant (general)
Service station	Software development
Theater	Hospital services (general)
Club or lodge	Outdoor entertainment
Plant nursery	Special use historic
Hotel-motel	

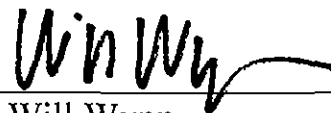
Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on January 19, 2004.

PASSED AND APPROVED

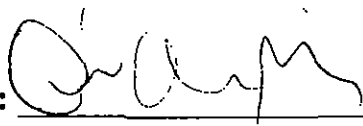
January 8, 2004

§
§
§



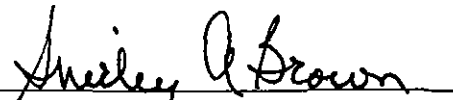
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Brown
City Clerk

TRACT 1

FIELD NOTE DESCRIPTION OF A 11.017 ACRE TRACT OF LAND OUT OF THE SOLO STAR REALTY, INC. TRACT, TRAVIS COUNTY, TEXAS

BEING a 11.017 acre (479,881 square feet) tract of land situated in the J.A.G. Brooke Survey No. 79, Abstract No. 69, and the Louis Fritz Survey No. 291, Abstract No. 279, City of Austin, Travis County, Texas; also being a portion of that certain called 103.397 acre tract of land described in a Special Warranty Deed (With Vendor's Lien) to Solo Star Realty, Inc., executed October 14, 1993, and recorded in Volume 12056, Page 1563, of the Real Property Records of Travis County, Texas (R.P.R.T.C.T.); said 11.017 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1-inch iron pipe (Control Monument) found marking an interior corner of said 103.397 acre tract, same being the most southerly corner of a road (known as V.F.W. Road) dedicated in Plat Book 7, Page 143, of the Plat Records of Travis County, Texas (P.R.T.C.T.), and filed for record on February 21, 1956;

THENCE, North 59 degrees 50 minutes 00 seconds West, with the common southwesterly right-of-way (R.O.W.) line of said V.F.W. Road (a 60 foot wide R.O.W. at this location per said plat) and a northeasterly line of said 103.397 acre tract, a distance of 657.44 feet to a 1/2-inch iron rod with orange plastic cap stamped "Wallace Group" (hereafter referred to as "Wallace Group cap") set for the **POINT OF BEGINNING** and easternmost corner of the herein described tract of land, said point also being the beginning of a tangent curve to the right from which the radius point bears North 56 degrees 07 minutes 35 seconds West, at 445.77 feet;

THENCE, departing said common line, and crossing through the interior of said 103.397 acre tract, the following four (4) calls:

- 1) In a westerly direction, with said curve to the right, through a central angle of 71 degrees 25 minutes 26 seconds, an arc length of 555.69 feet, and a chord bearing and distance of South 69 degrees 35 minutes 08 seconds West - 520.40 feet to a calculated point for a corner of the herein described tract and being the end of said curve;
- 2) North 74 degrees 42 minutes 08 seconds West, a distance of 37.10 feet to a calculated point for a corner of the herein described tract;
- 3) South 12 degrees 17 minutes 53 seconds West, a distance of 51.88 feet to a calculated point for a corner of the herein described tract;

EXHIBIT A

Tract 1 continued
Description of 11.017 acre tract

- 4) North 73 degrees 29 minutes 17 seconds West, a distance of 601.73 feet to a 1/2-inch iron rod with Wallace Group cap set for the westernmost corner of the herein described tract, said point being on the common easterly R.O.W. line of Interstate Highway 35 (a 300 foot wide R.O.W. at this location) and a westerly line of said 103.397 acre tract;

THENCE, North 12 degrees 15 minutes 27 seconds East, with said common line, a distance of 62.19 feet to a concrete monument found and as called for in the deed for said 103.397 acre tract for corner of the herein described tract, said point also being the beginning of a non-tangent curve to the left from which the radius point bears North 77 degrees 46 minutes 39 seconds West, at 3,969.72 feet;

THENCE, in a northerly direction, continuing with said common line, and with said curve to the left, through a central angle of 07 degrees 50 minutes 06 seconds, an arc length of 542.85 feet, and a chord bearing and distance of North 08 degrees 18 minutes 18 seconds East - 542.42 feet to a 1/2-inch iron rod with Wallace Group cap set for the northernmost corner of the herein described tract;

THENCE, South 88 degrees 15 minutes 36 seconds East, departing said common line, and crossing through the interior of said 103.397 acre tract, a distance of 84.82 feet to a 1/2-inch iron rod with Wallace Group cap set for an angle point and corner of the herein described tract, said point being on the common southwesterly R.O.W. line of said V.F.W. Road and a northeasterly line of said 103.397 acre tract;

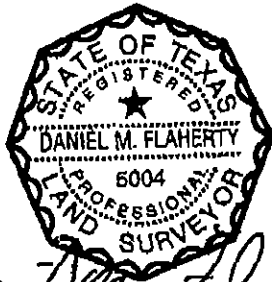
THENCE, South 59 degrees 50 minutes 00 seconds East, with said common line, at a distance of 554.20 feet passing a truck axle (Control Monument) found and as called for on the plat for said road dedicated in Plat Book 7, Page 143, P.R.T.C.T., and continuing in all a total distance of 1,081.62 feet to the POINT OF BEGINNING of the herein described tract, delineating and encompassing within the metes recited 11.017 acres (479,881 square feet) of land, more or less, based on a survey performed by The Wallace Group, Inc., Round Rock, Texas in June of 2003.

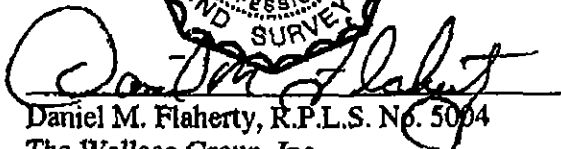
An exhibit drawing of even survey date herewith accompanies this field note description.

Tract 1 continued
Description of 11.017 acre tract

NOTE: This document is not to be used to convey real property

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description and the exhibit drawing attached hereto were prepared from an actual survey of the property performed on the ground and that the same is true and correct.



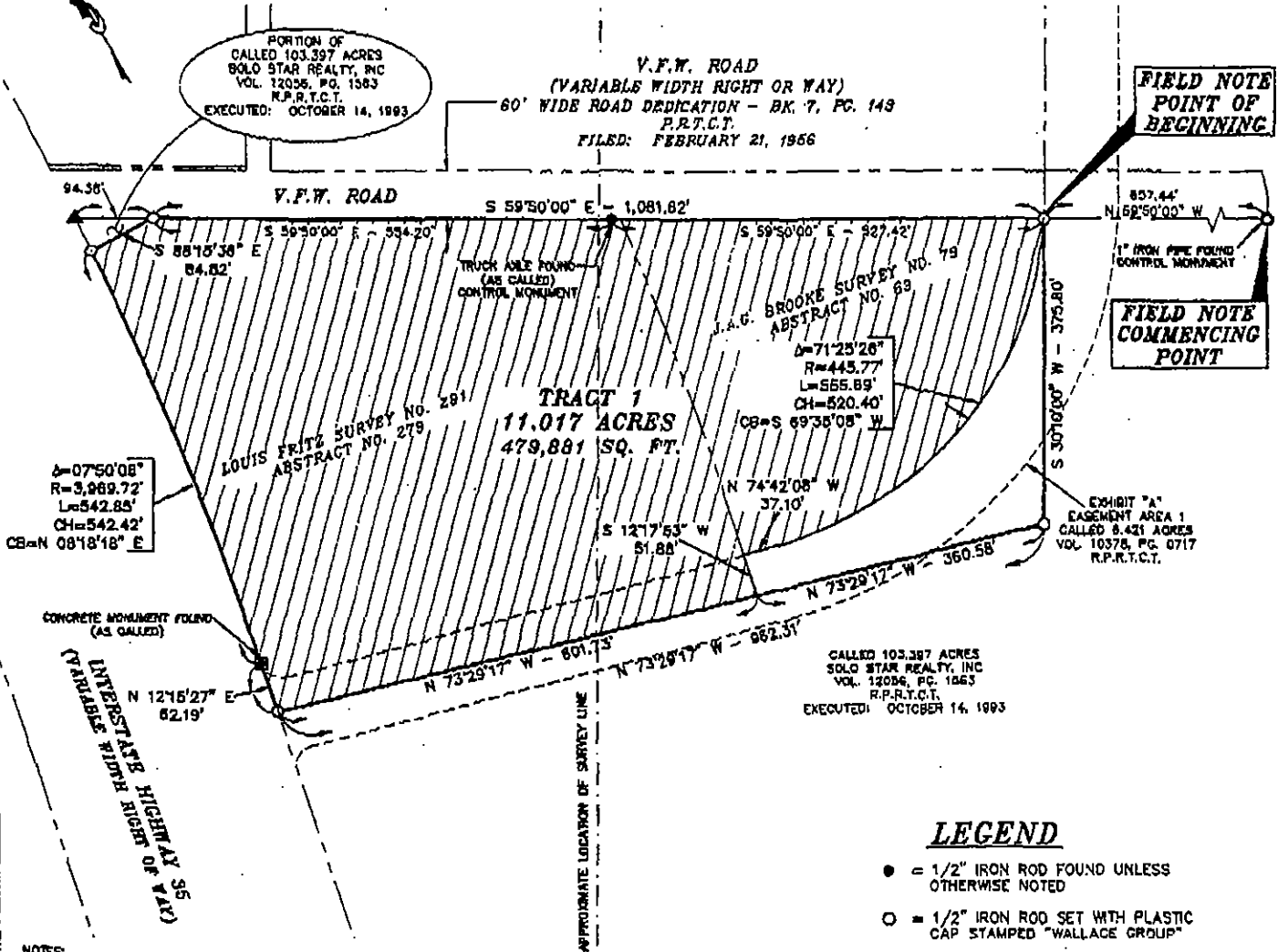

Daniel M. Flaherty, R.P.L.S. No. 5004

The Wallace Group, Inc.
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Work Order No. 16094
(512) 248-0065

See attached plat RR A-4099
16094-FN03.doc

TRACT 1

DRAWING TO ACCOMPANY FIELD NOTE DESCRIPTION
OF A 11.017 ACRE TRACT OF LAND IN THE J.A.G. BROOKE SURVEY NO.
79, ABSTRACT NO. 69 AND THE LOUIS FRITZ SURVEY NO. 291,
ABSTRACT NO. 279, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A
109.397 ACRE TRACT OF LAND RECORDED IN VOLUME 12058, PAGE 1563,
REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS



LEGEND

- = 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- = 1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "WALLACE GROUP"
- ▲ = CALCULATED CORNER

R.P.R.T.C.T. = REAL PROPERTY RECORD TRAVIS COUNTY, TEXAS

D.R.T.C.T. = DEED RECORDS TRAVIS COUNTY TEXAS

P.R.T.C.T. = PLAT RECORDS TRAVIS COUNTY TEXAS

NOTES:
1.) BE IT KNOWN THAT THE SURVEYOR HAS NOT PERFORMED A COMPLETE ABSTRACT AND HAS NOT BEEN FURNISHED A TITLE COMMITMENT, THEREFORE SOME EASEMENTS OR OTHER RIGHTS AFFECTING THE TRACT MAY NOT BE SHOWN.
2.) THIS EXHIBIT DRAWING IS ACCOMPANIED BY A SEPARATE FIELD NOTE DESCRIPTION.
3.) BASIS OF BEARINGS ARE REFERENCED TO THE SOUTHWESTERLY LINE OF V.F.W. ROAD, AS PLATTED FOR ROAD DEDICATION IN BK. 7, PAGE 143, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THE NORTHEASTERLY OF THE SUBJECT TRACT - NORTH 69 DEGREES 50 MINUTES WEST, A DISTANCE OF 1,184.89 FEET FOR PLAT CALL; NORTH 50 DEGREES 50 MINUTES WEST 00 SECONDS, A DISTANCE OF 1,184.88 FEET BETWEEN FOUND MONUMENTS (TRUCK AXLE TO 1" IRON PIPE).
4.) THIS DOCUMENT IS NOT TO BE USED TO CONVEY REAL PROPERTY.



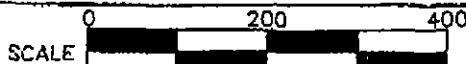
The Wallace Group, Inc.

1 Chisholm Trail Suite 130, Round Rock, Texas 78881 (512) 248-0085
Engineers ■ Architects ■ Planners ■ Surveyors
Waco ■ Killeen ■ Austin ■ Dallas ■ Round Rock

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THIS PLAT AND THE SURVEY UPON WHICH IT IS BASED MEETS THE REQUIREMENTS FOR LAND SURVEYS IN THE STATE OF TEXAS. THIS THE 2ND DAY OF DECEMBER, 2003.

SURVEYED: 5-20-03

DANIEL M. FLAHERTY, R.P.L.S. NO. 5004



© 2003 ALL RIGHTS RESERVED

PLAT NO. RR A-4099

DRAFT DATE 12-02-03

DRAWN BY MJM

WORK ORDER NO. 16094

FIELDBOOK/PG. RR 27/18-39

TAB # ZONING

DIGITAL FILE 16094ZONING2

F/N # 16094-FN03



4 OF 4

TRACT 2

FIELD NOTE DESCRIPTION OF A 0.984 ACRE TRACT OF LAND OUT OF THE SOLO STAR REALTY, INC. TRACT, TRAVIS COUNTY, TEXAS

BEING a 0.984 acre (42,845 square feet) tract of land situated in the J.A.G. Brooke Survey No. 79, Abstract No. 69, City of Austin, Travis County, Texas; also being a portion of that certain called 103.397 acre tract of land described in a Special Warranty Deed (With Vendor's Lien) to Solo Star Realty, Inc., executed October 14, 1993, and recorded in Volume 12056, Page 1563, of the Real Property Records of Travis County, Texas (R.P.R.T.C.T.); said 0.984 acre tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1-inch iron pipe (Control Monument) found marking an interior corner of said 103.397 acre tract, same being the most southerly corner of a road (known as V.F.W. Road) dedicated in Plat Book 7, Page 143, of the Plat Records of Travis County, Texas (P.R.T.C.T.), and filed for record on February 21, 1956;

THENCE, North 59 degrees 50 minutes 00 seconds West, with the common southwesterly right-of-way (R.O.W.) line of said V.F.W. Road (a 60 foot wide R.O.W. at this location per said plat) and a northeasterly line of said 103.397 acre tract, a distance of 657.44 feet to a 1/2-inch iron rod with orange plastic cap stamped "Wallace Group" (hereafter referred to as "Wallace Group cap") set for the **POINT OF BEGINNING** and easternmost corner of the herein described tract of land;

THENCE, departing said common line, and crossing through the interior of said 103.397 acre tract, the following five (5) calls:

- 1) South 30 degrees 10 minutes 00 seconds West, a distance of 375.80 feet to a 1/2-inch iron rod with Wallace Group cap set for the southernmost corner of the herein described tract;
- 2) North 73 degrees 29 minutes 17 seconds West, a distance of 360.58 feet to a calculated point for the westernmost corner of the herein described;
- 3) North 12 degrees 17 minutes 53 seconds East, a distance of 51.88 feet to a calculated point for a corner of the herein described tract;
- 4) South 74 degrees 42 minutes 08 seconds East, a distance of 37.10 feet to a calculated point for a corner of the herein described tract, said point also being the beginning of a tangent curve to the left from which the radius point bears North 15 degrees 17 minutes 51 seconds East, at 445.77 feet;

EXHIBIT B

Tract 2 continued
Description of 0.984 acre tract

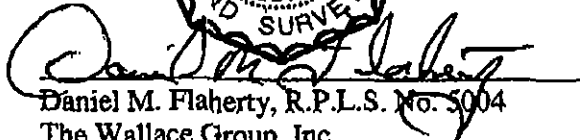
- 5) In a easterly direction, with said curve to the left, through a central angle of 71 degrees 25 minutes 26 seconds, an arc length of 555.69 feet, and a chord bearing and distance of North 69 degrees 35 minutes 08 seconds East - 520.40 feet to the POINT OF BEGINNING of the herein described tract, delineating and encompassing within the metes recited 0.984 acre (42,845 square feet) of land, more or less, based on a survey performed by The Wallace Group, Inc., Round Rock, Texas in June of 2003.

An exhibit drawing of even survey date herewith accompanies this field note description.

NOTE: This document is not to be used to convey real property

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description and the exhibit drawing attached hereto were prepared from an actual survey of the property performed on the ground and that the same is true and correct.

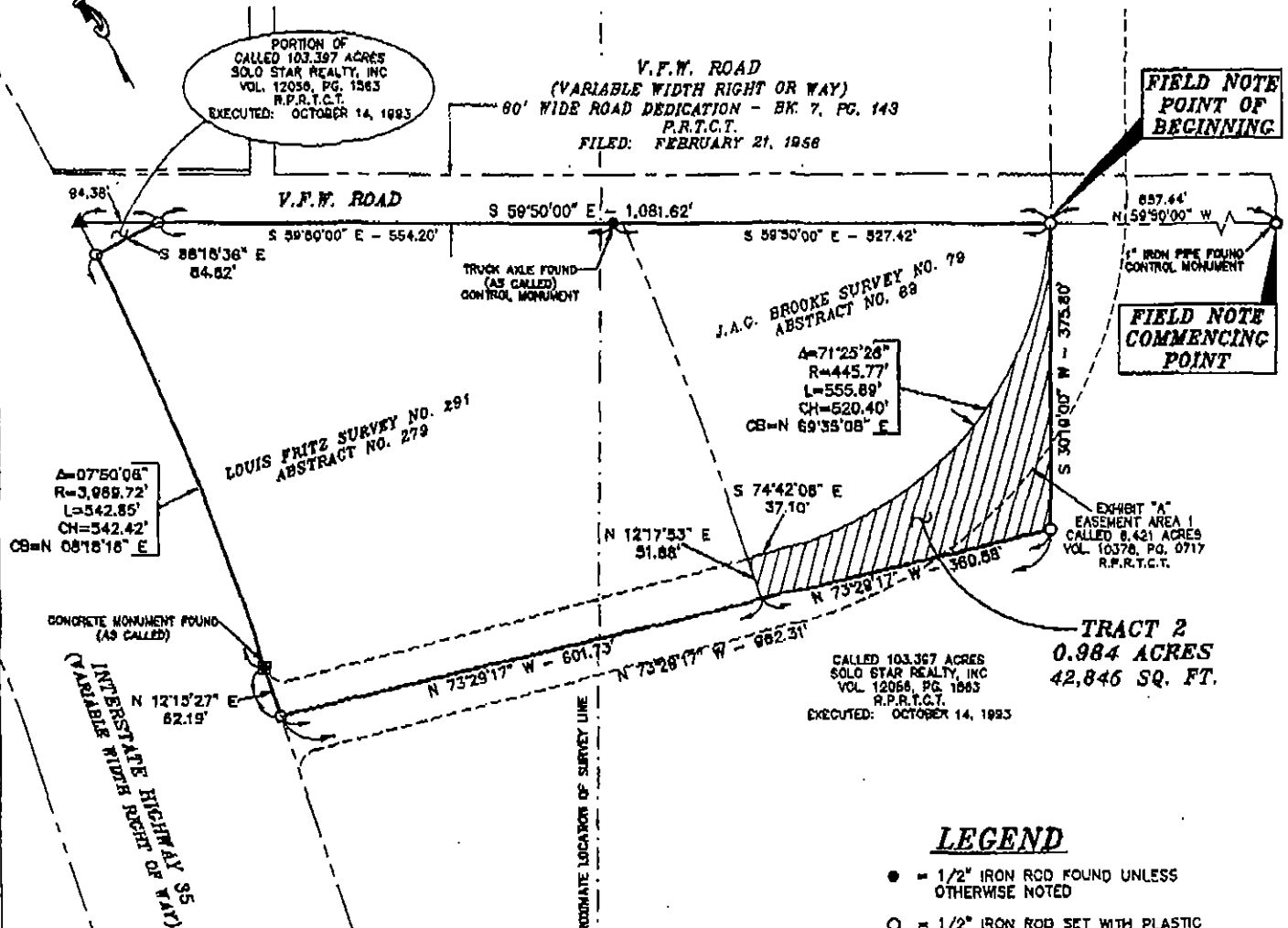



Daniel M. Flaherty, R.P.L.S. No. 5004
The Wallace Group, Inc.
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Work Order No. 16094
(512) 248-0065

See attached plat RR A-4100
16094-FN04.doc

TRACT 2

DRAWING TO ACCOMPANY FIELD NOTE DESCRIPTION
OF A 0.984 ACRE TRACT OF LAND IN THE J.A.C. BROOKE SURVEY NO. 79,
ABSTRACT NO. 89, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A
103.397 ACRE TRACT OF LAND RECORDED IN VOLUME 12056, PAGE 1563,
REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS



NOTES:
 1.) BE IT KNOWN THAT THE SURVEYOR HAS NOT PERFORMED A COMPLETE ABSTRACT AND HAS NOT BEEN FURNISHED A TITLE COMMITMENT, THEREFORE SOME EASEMENTS OR OTHER RIGHTS AFFECTING THE TRACT MAY NOT BE SHOWN.
 2.) THIS EXHIBIT DRAWING IS ACCOMPANIED BY A SEPARATE FIELD NOTE DESCRIPTION.
 3.) BASIS OF BEARINGS ARE REFERENCED TO THE SOUTHWESTERLY LINE OF V.F.W. ROAD, AS PLATTED FOR ROAD DEDICATION IN BK. 7, PAGE 143, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THE NORTHEASTERLY OF THE SUBJECT TRACT - NORTH 89 DEGREES 50 MINUTES WEST, A DISTANCE OF 1,184.68 FEET PER PLAT CALL: NORTH 89 DEGREES 50 MINUTES WEST 00 SECONDS, A DISTANCE OF 1,184.68 FEET BETWEEN FOUND MONUMENTS (TRUCK AXLE TO 1" IRON PIPE).
 4.) THIS DOCUMENT IS NOT TO BE USED TO CONVEY REAL PROPERTY.



The Wallace Group, Inc.

1 Chisholm Trail Suite 130, Round Rock, Texas 78681 (512) 248-0085
 Engineers ■ Architects ■ Planners ■ Surveyors
 Waco ■ Killeen ■ Austin ■ Dallas ■ Round Rock



I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THIS PLAT AND THE SURVEY UPON WHICH IT IS BASED MEETS THE REQUIREMENTS FOR LAND SURVEYS IN THE STATE OF TEXAS, THIS THE 2ND DAY OF DECEMBER, 2003.

SURVEYED: 5-20-03

DANIEL M. FLAHERTY, R.P.L.S. NO. 5004

3 OF 3



© 2003 ALL RIGHTS RESERVED

PLAT NO. RR A-4100

DRAFT DATE 12-02-03

DRAWN BY MJM

WORK ORDER NO. 16094

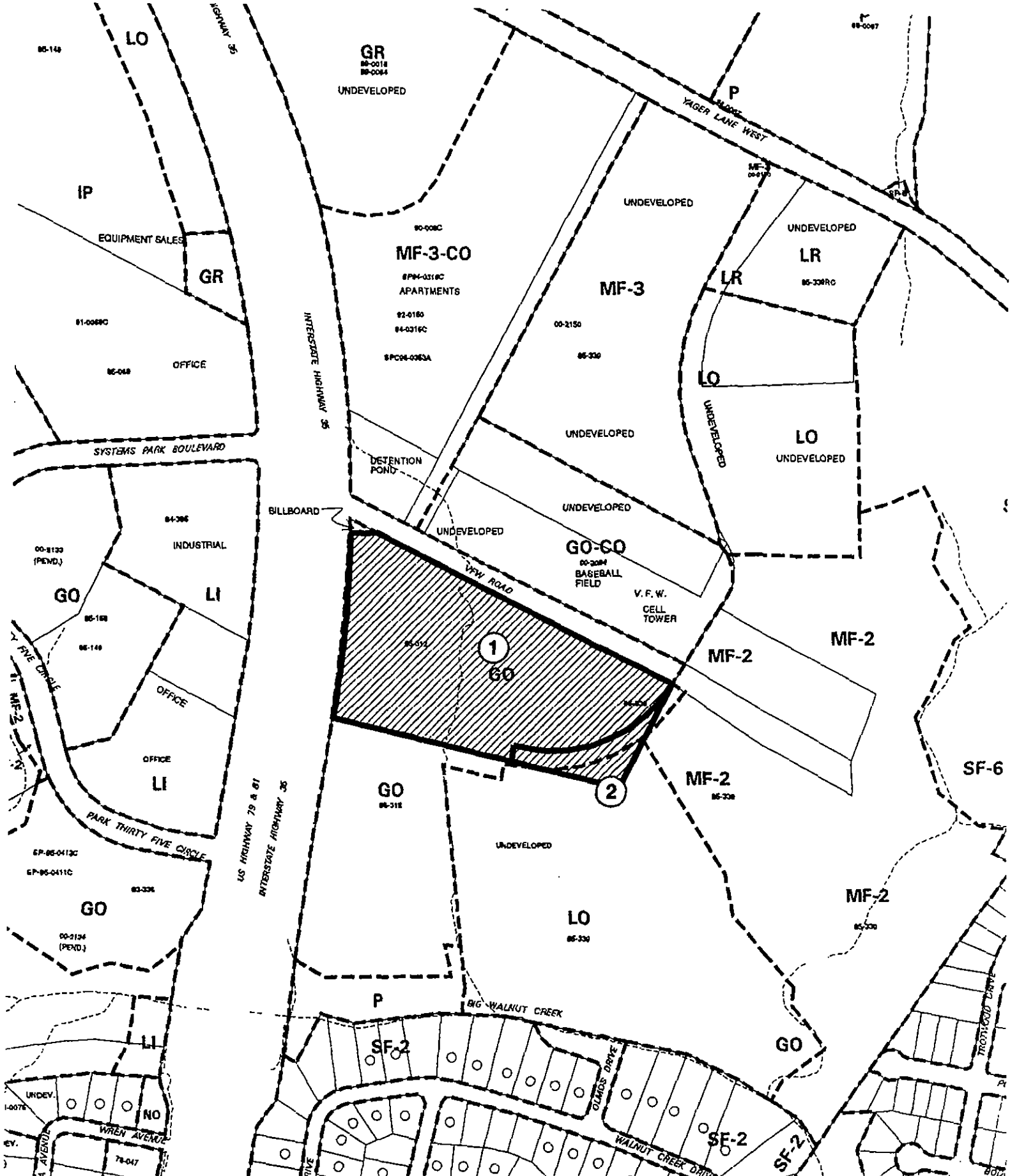
FIELDBOOK/PG. RR 27/18-39

TAB # ZONING

DIGITAL FILE 16094ZONING2

F/N #

16094-FN04



 1" = 400'	SUBJECT TRACT		ZONING EXHIBIT C	CITY GRID REFERENCE NUMBER M32-33
	PENDING CASE			
	ZONING BOUNDARY			
	CASE MGR: S. GAGER			
	CASE #: C14-03-0151		DATE: 03-12	
	ADDRESS: N I 35			
	SUBJECT AREA (acres): 12		INTLS: SM	

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2020-0143

Contact: Heather Chaffin, 512-974-2122

Public Hearing: Jun 01, 2021, Zoning and Platting Commission

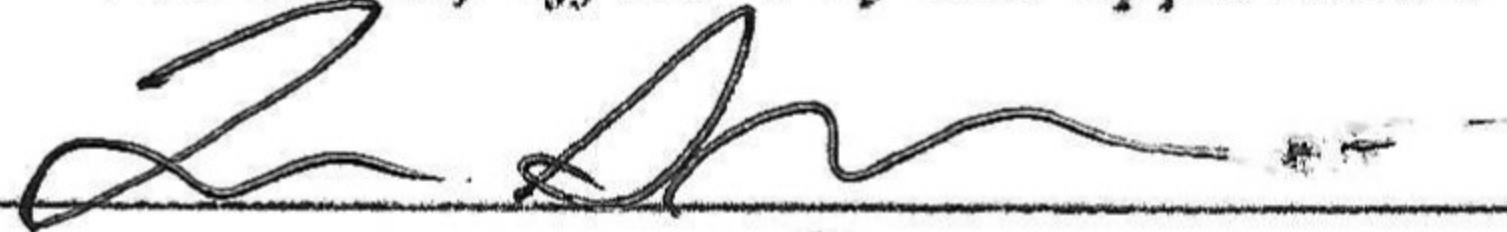
LEE GUYETTE

Your Name (please print)

☐ I am in favor
☒ I object

732 WATERFALL WAY

Your address(es) affected by this application



Signature

5/25/2021

Date

Daytime Telephone: 512-423-5751

My wife and I are senior citizens in a small quiet neighborhood adjacent to the proposed rezoning area. We rely on our property values to help secure our retirement. If our property values are impacted, so is our retirement.

We have several other concerns in addition to decreased property values:

- Increased auto and people traffic to and from the apartments.
- Increased maintenance costs to repair or clean-up apartment-related issues.
- Increased crime from nearby high-density living conditions.

Comments may be returned to:

City of Austin

Housing and Planning Department

Heather Chaffin

P. O. Box 1088

Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

EXHIBIT D

From: Glenn Weichert < >

Sent: Thursday, May 27, 2021 10:22 AM

To: Heather Chaffin (heather.chaffin@austintexas.gov) <heather.chaffin@austintexas.gov>

Cc: Mike Simpson < >

Subject: Fw: Zoning Hearing for Nearby Multi-Family Apts. Near SoWC Entrance on Bowery Trail

Hi Heather, it has been a while since we have talked. I represent The Springs at Walnut Creek HOA and my client is strongly opposed to this rezoning to MF-4. Would you please call me at your earliest convenience at (512) 264-2666 X101 to discuss the background on the case? Thank you,
Glenn Weichert

From: Mike Simpson < >

Sent: Monday, May 24, 2021 2:31 PM

To: < >; Ron Lussier < >; Glenn Weichert < >

Subject: Zoning Hearing for Nearby Multi-Family Apts. Near SoWC Entrance on Bowery Trail

I just posted this on our SoWC FB page:

TO ALL SoWC HOMEOWNERS: A zoning hearing will be held on June 1, 2021 at 6:00 pm on the proposed multi-family apartment complex to be built on the north side of Bowery Trail just off our subdivision entrance from I.H. 35 (a potential of 900 residents and 400-600 cars). See attached notice that showed up in my USPS mailbox today. This should have gone out to all property owners with a city utilities account within about 500' of the subject property. The HOA Board obviously will be participating in the hearing and voicing the HOA's opposition - that we wish the property remain zoned for a car dealership and general office use. The Board will be discussing our options with our HOA attorneys, and reporting back our strategy. Stay tuned.

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to cybersecurity@austintexas.gov.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to participate in a public hearing, you are not required to participate. This meeting will be conducted online and you have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for information on how to participate in the public hearings online. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:
www.austintexas.gov/planning.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2020-0143

Contact: Heather Chaffin, 512-974-2122

Public Hearing: Jun 01, 2021, Zoning and Platting Commission

RASHIDUL HAQUE

Your Name (please print)

☐ I am in favor
☒ I object

813 Waterfall Way, Austin 78753

Your address(es) affected by this application

Rashidul Haque

Signature

05/25/2021

Date

Daytime Telephone: 512-779-0383

Comments: This community has two exit and entrance which is always busy to extra traffic most of the time. Rezoning from GR-CO to MF-4 will create traffic which will more than what we are facing. This area has so many residential hotel and also under construction a new apartment complex. I object MF-4 residence.

If you use this form to comment, it may be returned to:

City of Austin

Housing and Planning Department

Heather Chaffin

P. O. Box 1088

Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov



October 27, 2021

City Council
City of Austin

Via E-mail at <https://www.austintexas.gov/email/all-council-members>

CC: Maureen Meredith

RE: NPA-2020-0002.01- Fair Market
C14-2021-0061 - Fair Market Rezoning
LDC Section § 25-2-766.23 AMENDMENTS TO STATION AREA PLAN

Dear Mayor, Mayor Pro-Tem, and City Council,

My name is Kristen Heaney and I'm the Chair of the East Cesar Chavez Neighborhood Plan Contact Team (ECC-NPCT).

I'm writing today as a steward of our Neighborhood Plan and a supporter of the incredible work you did in 2017 to unanimously eliminate CURE east of IH-35. You'll recall that CURE was initially created in 1996 to incentivize Downtown and nearby redevelopment. By 2017 "the challenge in East Austin was no longer how to encourage business investment, but rather how to slow down the flood of investment dollars that are driving up the cost of housing and forcing many longtime east siders to relocate to the outskirts of the city."¹ In 2017, City Council eliminated CURE east of IH-35 "because (CURE) gives density and height without the benefit," and you said, "let's take a look at how we can actually use the market to actually drive what may be our only and last opportunity to really provide affordability in these areas."²

I'm writing today because those efforts remain vulnerable to crafty developers and attorneys who are finding new ways to make requests for development incentives with no commensurate community benefit. The rollback of CURE must be defended.

On behalf of the ECC-NPCT, I am writing to strongly encourage you to oppose current and future ordinances amending the East Cesar Chavez Neighborhood Plan and the Plaza Saltillo (TOD) Station Area Plan (an element of the Imagine Austin Comprehensive Plan) to change the base maximum building height on an individual property, singling out a small tract of land, for rezoning which serves no substantial public purpose.

The ECC-NPCT formally requests that the City Council work with our Neighborhood Plan Amendment Committee to define and propose comprehensive plan amendments that recreate Density

¹ <https://www.austinmonitor.com/stories/2017/10/council-looks-roll-back-cure-zoning/>

² Mayor Adler, City Council Work Session Transcript – 10/17/2017

and Height Bonuses as viable “tools for driving increased affordability, and permanent affordability.”³ LDC Section § 25-2-766.23 suggests that we can’t do it without you.

Specifically, the Fair Market property at E. 5th and Waller St (11/04/2021 Council Agenda Items 46 and 47) is precedent setting and must be opposed. Without CURE, this individual property (as well as two others within the past 18 months) has had to file multiple amendments in its attempt to find a work around to gain additional height including an amendment to the ECC Neighborhood Plan, an amendment to the Saltillo TOD Regulating Plan, and a separate zoning ordinance amending City Code Title 25 to change the base maximum building height from 60 feet to 85 feet. Why would we allow this?

The neighborhood opposes this request and those that mimic it for a number of reasons:

1. NO CURE EAST of IH-35

When CURE was rolled back East of IH-35, the City Council unanimously agreed that we should not give away height and density without taking a look at whether or not we can use those as tools for driving increased affordability, and permanent affordability.

We still need comprehensive plan amendments to address community benefits in exchange for entitlements. Meanwhile, we cannot support individual property plan amendments to change the base height on a single property with no substantial public purpose or community benefit. Doing so completely undoes the intention set when the City City Council (including Mayor Adler and Councilmembers Alter, Casar, Kitchen, Pool, Renteria, and Tovo) unanimously rolled back CURE east of IH-35.

2. DENSITY BONUS

The Saltillo TOD Density Bonus Section clearly states that, "In order for a property owner to pay a fee in-lieu of meeting affordability requirements, they must demonstrate a compelling reason to not provide housing on-site."

Is “because we’re building an office” really a compelling reason?

District 3 is currently 3,000 units short of its goal to build or preserve over 6,000 affordable units by 2027. We need to be producing 500 affordable units per year. That’s a compelling reason!

Additionally, the Saltillo TOD Regulating Plan already includes a TOD Urban Mixed Use sub-district and a Super Density Bonus that addresses building heights up to 85 feet in exchange for much higher affordability standards and NO fee-in-lieu option. This is the current standard that 85 feet height amendments should be measured against.

Changes to the Saltillo TOD Regulating Plan including revisions to Base Height Maps and Density Bonuses should be considered comprehensively, not lot by lot.

³ Mayor Adler, City Council Regular Meeting Transcript – 10/19/2017

According to LDC Section § 25-2-766.23 AMENDMENTS TO STATION AREA PLAN can only be initiated by (A) City Council or (B) Land Owners. The ECC-NPCT requires and requests City Council's help and sponsorship to make comprehensive plan amendments to the Saltillo TOD Regulating Plan.

3. CONTRACT ZONING

Recent zoning cases, including Fair Market, indirectly put the neighborhood in the position of negotiating with individual landowners to provide some other consideration (in addition to an inadequate Fee-In-Lieu) in exchange for the zoning. NPCT's are not qualified to facilitate these negotiations nor should we be participating in any way that directly or indirectly supports any zoning that could be considered "Contract Zoning".

"Zoning is the legislative function of municipalities that they cannot contract away"⁴ and we need your help.

4. SPOT ZONING

We're concerned that these requests could be considered "spot zoning" as defined by the Texas Supreme Court in *The City of Pharr v. Tippitt*⁵ and they should be challenged.

Requests that single out a small tract of land for rezoning which serves no substantial public purpose should be denied. We think you'll agree that no zoning plan should not be altered for the special benefit of the landowner.

For these reasons, we have asked the City Council to oppose and/or put a pause on zoning and plan amendment cases in the Saltillo TOD and work with us to revise and improve the Saltillo TOD Regulating Plan in favor of a comprehensive solution that meets the current needs of our city and our neighborhood.

Specifically, we are asking the City Council to oppose the Fair Market Zoning and Neighborhood Plan Amendments.

Additionally, we have voted to create a Neighborhood Plan Amendment Committee which I will chair and we are initiating conversations with City Staff to initiate our own NPA Application to help solve for this onslaught of individual requests. We cannot implement our amendments without City Council.⁶ We know you agree that comprehensive plan amendments are overdue and we need your help to get it done.

"We shouldn't have downtown levels of zoning without community benefits east of I-35" - Greg Cesar, City Council Work Session Transcript – 10/17/2017

⁴ Super Wash, Inc. v City of White Settlement, 131 S.W.3d 249,257 (Tex. App.-Fort Worth, 2004)

⁵ City of Pharr v. Tippitt, 616 S.W.2d 173, 177 (Tex.1981)

⁶ LDC Section § 25-2-766.23 AMENDMENTS TO STATION AREA PLAN

“The Saltillo TOD is an opportunity to create affordability where the market is not going to create it by itself.” - Mayor Adler, City Council Work Session Transcript – 10/17/2017

“I don't think we should have a zoning category like (CURE)...without community benefits.” “I think we should probably have a discussion outside of this one about other kind of code amendments that make sense to do.” - Kathie Tovo, City Council Work Session Transcript – 10/17/2017

The Saltillo TOD Regulating Plan can be a reliable tool for building affordable housing and it has room for improvement. We are committed to maintaining and rebuilding affordable housing units in our neighborhood.

We are committed to protecting the intention of the CURE roll back east of IH-35.

We'd love to have your support.

If you are interested in working with the ECC-NPCT to “take a look at how we can actually use the market to actually drive what may be our only and last opportunity to really provide affordability in these areas”⁷ please contact me directly and let's get to work!

Thank you for your consideration.

Sincerely,

Kristen E. Heaney

Kristen Heaney

Chair, East Cesar Chavez Neighborhood Plan Contact Team

kristen.e.heaney@gmail.com

(512) 694-0363

CC: Hon. Mayor and Council of the City of Austin *via e-mail*
ECCNPT *via e-mail*

⁷ Mayor Adler, City Council Work Session Transcript – 10/17/2017