

Amanda Swor
direct dial: (512) 807-2904
[REDACTED]

July 11, 2022

Board of Adjustment
City of Austin
6310 Wilhelmina Delco Dr.
Austin, TX 78752

Via Electronic Delivery

Re: Appeal Response: Windsor Village – Response to the Appeal of Interpretation filed for the site development permit application for Windsor Village, the 4.97-acre and 1.17-acre pieces of property located at 5900 Westminster Drive in the City of Austin, Travis County, Texas (the “Property”).

Chair Cohen and Board Members:

As representatives of the owners of the Property, we respectfully submit the below and enclosed correspondence to the Appeal of Interpretation, case number C15-2022-0051, associated with site development permit for Windsor Village, case number SP-2020-0257C.SH (the “Project”).

The Property owners have been working with City staff for over two years on the site development permit for this project. The Site Development Permit was issued from the City of Austin for the project on May 2, 2022. Subsequently the Austin Mennonite Church (the “Appellant”) filed an appeal on May 19, 2022 to specific staff interpretations associated with the Site Development Permit. The below information is intended to provide additional information for the items that were specifically appealed by the appealing party.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map.
 - a. Subchapter E §1.1.5: *To provide for and encourage development and redevelopment that contains a compatible mix of residential and nonresidential uses within close proximity to each other, rather than separating uses.*

Appellant Argument: The project “does not relate well to adjoining public streets, open spaces or the neighborhood.”

- **Response:** The Project is dedicating public parkland to the City of Austin as part of the Site Development Permit review process. The Property Owner worked extensively with the Austin Parks and Recreation Department to determine the size, location and park program elements associated with the required parkland. The land dedicated provides both an east-west connection on the south side of the project as well as a destination along the southeastern portion of the Property. The vast majority of the parkland is situated along Westminster Drive, providing a community space across the street from the existing Austin Public library. Additionally, the buildings for the Project were situated to front and complement the new public park space along Westminster Drive, providing for additional use and activation. Exhibit A, Parkland Exhibit, is attached for reference.

- b. Subchapter E §2.1.7: *Ensure that building entranceways are convenient to and easily accessible from the roadside pedestrian and bicycle system.*

Appellant Argument: “Building entranceways are not convenient to nor easily accessible from the roadside pedestrian and bicycle system.”

- **Response:** Building entrances for the commercial portion of this Site Development Permit are located along the principal roadway (Westminster Drive) and adjacent to the dedicated parkland by way of publicly-accessible pathways. In addition, the project voluntarily proposed live/work units along the public parkland to provide direct entrances to pedestrian oriented uses adjacent to the public parkland area. The main entrance to the leasing office is located 255’ from R.O.W. allowing direct pedestrian access from Berkman Drive. Exhibit B, Entrance Exhibit, is attached for reference.

- c. Subchapter E §2.1.10: *Ensure that large sites are developed in a manner that supports and encourages connectivity and creates a cohesive visual identity and attractive street scene.*

Appellant Argument: “This is a large site that is not developed in a manner that supports and encourages connectivity.”

- **Response:** The Property consists of 6.14 acres of which 1.17 acres were dedicated to the City of Austin as public parkland and easements. The Project provides connectivity by public pathways through the public park which creates a public pedestrian connection from Westminster Drive to Berkman Drive. Additionally, the Project provides improved sidewalks along Westminster Drive which will include a widened clear zone, which varies from 5’ to 8’ feet and incorporates street trees. Lastly, a pedestrian walkway will be provided along the north side of the Property that will ultimately connect Westminster Drive to Berkman as part of a future phase of the development.

- d. Subchapter E §3.1.3: *Ensure that buildings contribute to the creation of a pedestrian-friendly environment through the provision of glazing, shading, and shelter at the pedestrian level.*

Appellant Argument: “The site plan does not ensure that buildings contribute to the creation of a pedestrian-friendly environment through the provision of glazing, shading, and shelter at the pedestrian level.”

- **Response:** The project creates a pedestrian-friendly, walkable environment on a Property with an existing car-centric design and layout. The dedicated parkland is located at the southeast corner of the project and provides pedestrian connections to the ground floor retail spaces located along Westminster Drive. The Project worked with the City Arborists office to preserve an existing protected heritage tree that is situated along Westminster and designed the driveway access and retail space around this tree to utilize the natural shade and shelter at a pedestrian level. In addition, the Project provides street trees along Westminster which equate to a 50% shaded sidewalk along the principal roadway. Exhibit C, Tree Exhibit, is attached for reference. Finally, the project is utilizing high quality building materials and shading elements above building entrances to enhance the pedestrian environment.
- e. Subchapter E §4.1: *This Article 4 is intended to provide for and encourage development and redevelopment that contains a compatible mix of residential, commercial, and institutional uses within close proximity to each other, rather than separating uses. The mixed use provisions define the uses of land and the siting and character of the improvements and structures allowed on the land in a manner that encourages a balanced and sustainable mix of uses. They promote an efficient pedestrian-access network that connects the nonresidential and residential uses and transit facilities. Redevelopment of underutilized parcels and infill development of vacant parcels should foster pedestrian-oriented residential and mixed use development.*

Appellant Argument: The site plan does not “offer a balanced & sustainable mix of use, nor promote and efficient pedestrian-access network that connects the nonresidential and residential uses and transit facilities.”

- **Response:** The property is currently developed with an underutilized and largely vacant retail strip center with rows of surface parking and little pedestrian amenities. The approved project is a mixed-use development that includes ground floor commercial retail space that is located along and oriented towards the principal roadway, Westminster Drive, in addition to live/work space proposed fronting the newly enhanced dedicated parkland. Residential units make up the upper levels of the project, 10% of which are to be affordable creating an integrated project. In addition, as part of the work with the City of Austin Parks and Recreation Department a public east-west pedestrian and bicycle connection

has been established along the southern edge of the site that not only connects Westminster to Berkman but also connects retail, live/work and parkland on the east side of the project to retail and residential on the west side of the project. Today, bus service and bicycle lanes exist on Berkman Drive which with the parkland connection and location of proposed structures provides pedestrian access that connects to transit facilities.

2. An appeal of use provisions could clearly permit a use which is in character with the use enumerated for the various zones and with the objectives of the zone in question.

Appellant Argument

“The site is zoned GR-V-CO-NP. The site plan misapplies the optional VMU zoning to construct a multi-family project on a commercially zoned lot. The site plan must comply with all VMU requirements or apply for a zoning change.”

Subchapter E §4.3.3 VMU Standards:

Mix of Uses. A use on the ground floor must be different from a use on an upper floor. The second floor may be designed to have the same use as the ground floor so long as there is at least one more floor above the second floor that has a different use from the first two floors. At least one of the floors shall contain residential dwelling units.

Pedestrian-Oriented Commercial Spaces. Along at least 75 percent of the building frontage along the principal street, the building must be designed for commercial uses in ground-floor spaces that meet the following standards. A lobby serving another use in the VMU building shall not count as a pedestrian-oriented commercial space for purposes of this section.

Dimensional Requirements. Each ground-floor commercial space must have:

- a. *A customer entrance that opens directly onto the sidewalk;*
- b. *A depth of not less than 24 feet;*
- c. *A height of not less than 12 feet, measured from the finished floor to the bottom of the structural members of the ceiling; and*
- d. *A front facade that meets the glazing requirements of Section 3.2.2.*

- **Response:** The Property is zoned GR-V-CO-NP, Community Commercial – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan. The GR base district is a commercial district; the V overlay district permits residential uses by right provided the provisions of 4.3.3 (above) for the requirement a mix of uses and ground floor commercial spaces. Westminster Drive was designated by the City of Austin as the principal roadway as part of the Site Development Permit process. Therefore, to meet the VMU requirements outlined in 4.3.3, the Project is required to provide for 75% of the frontage along the principal roadway as commercial uses. Following the dedication of public parkland, the Project has 121 feet of frontage along Westminster Drive. Of that 121 feet, 109 feet are designated as commercial uses that meet the dimensional requirements outlined in the Code of Ordinances. In addition the required frontage along Westminster, the Project is voluntarily providing Live/work units along the frontage of the dedicated parkland. These

spaces are built out with the same dimensional requirements listed above. The commercial uses outlined above as well as the residential units above the ground level, fully complying with the mix of uses requirement of 4.3.3. Exhibit D, Commercial Space Exhibit, is attached for reference.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

Appellant Argument

“VMU is not being applied equitably on the Windsor Village site plan, compared to other projects cited by the City review staff,” specifically references the commercial building frontage requirement.

Subchapter E §4.3.3 VMU Standards:

Pedestrian-Oriented Commercial Spaces. Along at least 75 percent of the building frontage along the principal street, the building must be designed for commercial uses in ground-floor spaces that meet the following standards. A lobby serving another use in the VMU building shall not count as a pedestrian-oriented commercial space for purposes of this section.

- **Response:** to meet the VMU requirements outlined in 4.3.3, the Project is required to provide for 75% of the frontage along the principal roadway as commercial uses. Following the dedication of public parkland, the Project has 121 feet of building frontage along Westminster Drive. Of that 121 feet, 109 feet are designated as commercial uses that meet the dimensional requirements outlined in the Code of Ordinances. In addition the required frontage along Westminster, the Project is voluntarily providing Live/work units along the frontage of the dedicated parkland. These spaces are built out with the same dimensional requirements listed above. Exhibit D, Commercial Space Exhibit, is attached for reference.
4. Additional Space: Appeal Summary

Appellant Argument

§2.2 Relationship of Building to Streets and Walkways requires:

- a. An Internal Circulation Route (ICR) is the highest priority roadway type in the site plan, and therefore considered the principal street of the development.
- b. Buildings must be oriented along an ICR with the majority of tenant spaces facing an ICR.
- c. Building entrances should be located along the elevation facing the principal street.

- **Response:** Per Subchapter E § 2.2.5 the Project site area is less than 5 acres; therefore, this section is not applicable.

Appellant Argument

"§2.8 Shade and Shelter requires: shaded sidewalks along 50% of the building frontage on the designated ICR."

- **Response:** Per Subchapter E § 2.2.5 the Project site area is less than 5 acres; therefore, this section is not applicable.

Appellant Argument

"§4.3 Vertical Mixed Use Building Requirements:

- a. The building must be designed for commercial uses in ground floor spaces along at least 75% of the building frontage facing the principal street.*
- b. A mix of uses, where a use on the ground floor must be different from a use on an upper floor."*

- **Response:** The project is mixed-use consisting of ground floor commercial retail uses along Westminster Drive and residential multifamily units above the ground level, fully complying with the mix of uses requirement of 4.3.3. To meet the VMU requirements outlined in 4.3.3, the Project is required to provide for 75% of the frontage along the principal roadway as commercial uses. Following the dedication of public parkland, the Project has 121 feet of frontage along Westminster Drive. Of that 121 feet, 109 feet are designated as commercial uses that meet the dimensional requirements outlined in the Code of Ordinances. In addition the required frontage along Westminster, the Project is voluntarily providing Live/work units along the frontage of the dedicated parkland. of non-parkland frontage on the principal street, Westminster Drive, is ground floor commercial retail space, per Alternative Equivalent Compliance. Exhibit D, Commercial Space Exhibit, is attached for reference.

Appellant Argument

"A Project Circulation Plan depicting ICRs must be submitted with a site plan application for an area of 5 acres or larger per §2.2.5.D.

Based on information provided by City staff to date, the applicant for the site plan did not meet with the Director prior to submittal, nor provide a Project Circulation Plan."

- **Response:** Per Subchapter E § 2.2.5 the Project site area is less than 5 acres; therefore, this section is not applicable.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Sincerely,



Amanda Swor
Drenner Group

cc: Ty Puckett, Transwestern (*via electronic delivery*)
Brendan O'Leary, Transwestern (*via electronic delivery*)
John Duncan, Transwestern (*via electronic delivery*)
Russ Tomer, CEC (*via electronic delivery*)
Stephen O. Drenner, Drenner Group (*via electronic delivery*)

List of Exhibits:

Exhibit A: Parkland Exhibit

Exhibit B: Entrance Exhibit

Exhibit C: Tree Exhibit

Exhibit D: Commercial Space Exhibit

WESTMINSTER FLAT PARKLAND DEDICATION - REQUIRED

TOTAL PLAT AREA		PARKLAND DEDICATION REQUIREMENT	
30.13 AC	13%	3.92 AC	1.32 AC
WESTMINSTER FLAT PARKLAND DEDICATION - PROVIDED			
DESCRIPTION	TOTAL AREA (TOTAL PLAT AREA PARKLAND DEDICATION)	PARKLAND DEDICATION AREA (AC)	PERCENTAGE OF PLAT
LOT 1 PARK (CONSTRUCTED WITH SP-2000 (20% SP-2000))	50.00	1.17	1.17
LOT 2 PARK (CONSTRUCTED WITH SP-2000 (20% SP-2000))	11.205	0.27	0.27
LOT 3 PARK (CONSTRUCTED WITH SP-2000 (20% SP-2000))	2.120	0.05	0.05
LOT 4 PARK (CONSTRUCTED WITH SP-2000 (20% SP-2000))	0.11	0.005	0.005
TOTAL	63.435	1.59	1.59

PARK IMPERVIOUS COVER ALLOTMENT

LOT	IMPERVIOUS COVER (SQ. FT.)	ALLOTMENT (SQ. FT.)
LOT 1	10,000	1,000
LOT 2	20,000	2,000
LOT 3	30,000	3,000
LOT 4	40,000	4,000
TOTAL	100,000	10,000

Exhibit B: Entrance Exhibit

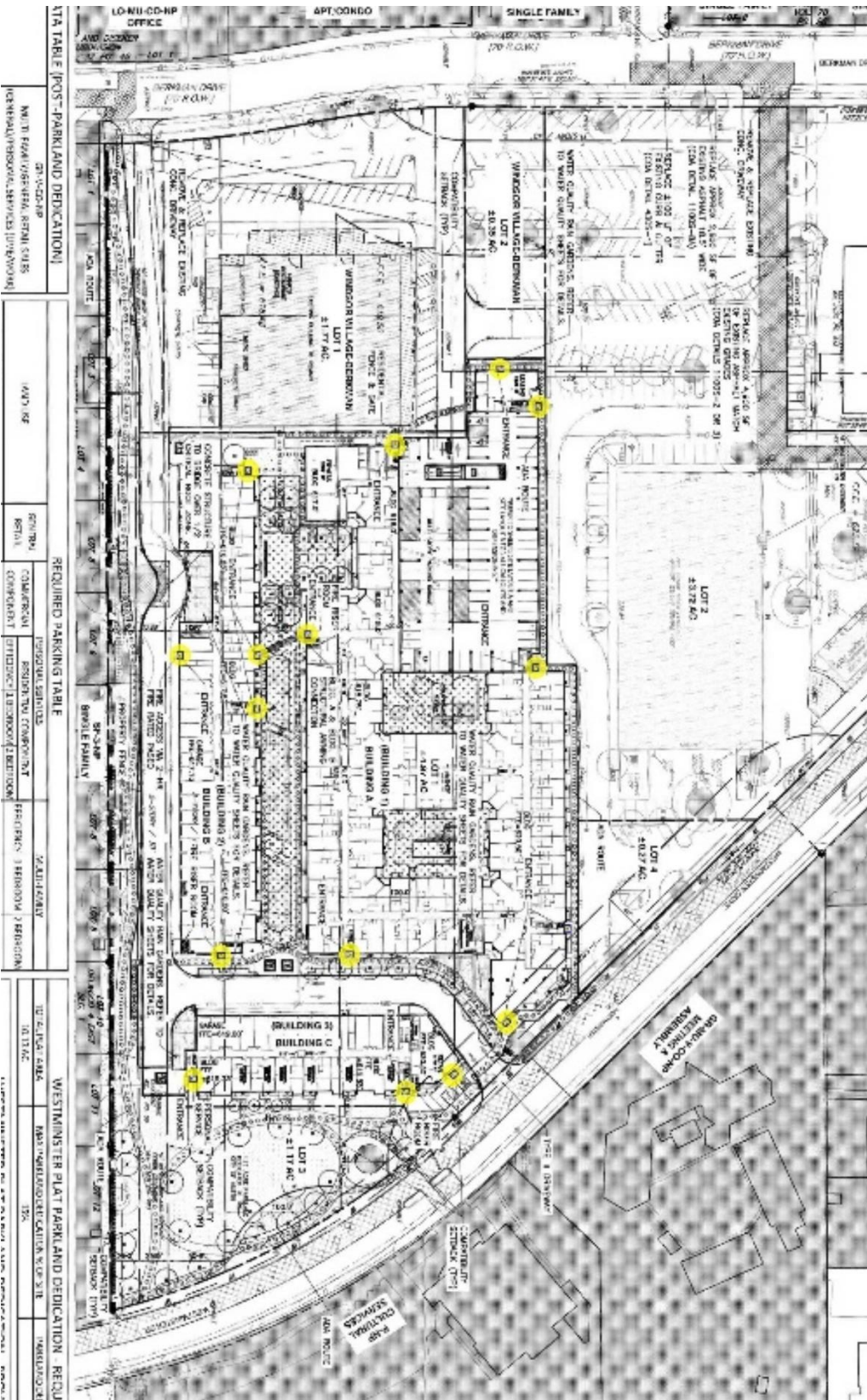


Exhibit C: Tree Exhibit



Exhibit D: Commercial Space Exhibit

