

## SECOND / THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2007-0042 – 1801 Nelms Drive

REQUEST:

Approve second / third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as the Snead House, located at 1801 Nelms Drive (Williamson Creek Watershed) from family residence (SF-3) district zoning and family residence – historic landmark (SF-3-H) combining district zoning to multifamily residence moderate high density-historic landmark-conditional overlay (MF-4-H-CO) combining district zoning. The Conditional Overlay 1) establishes a 25-foot wide setback around the footprint area (Tract 2), and that within this setback area, the maximum impervious cover is 50 percent; and 2) that field notes to describe Tracts 1 and 2 will be submitted with the site plan application.

DEPARTMENT COMMENTS:

The Conditional Overlay incorporates the conditions imposed by the City Council at First Reading.

OWNER: Invest Smart Homes (Todd Rayer).

AGENT: Thrower Design (Ron Thrower).

DATE OF FIRST READING: April 24, 2008, approved MF-4-H-CO district zoning, on First Reading (6-0, McCracken – off the dais).

CITY COUNCIL HEARING DATE: August 7, 2008

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Jerry Rusthoven  
e-mail: [jerry.rusthoven@ci.austin.tx.us](mailto:jerry.rusthoven@ci.austin.tx.us)

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2007-0042 – 1801 Nelms Drive

**HLC DATE:** July 23, 2007

**ZAP DATE:** October 16, 2007  
November 20, 2007

**CC DATE:** April 10, 2008  
April 24, 2008  
August 7, 2008

**ADDRESS:** 1801 Nelms Drive

**OWNERS:** Invest Smart Homes  
(Todd Rayer)

**AGENT:** Thrower Design  
(Ron Thrower)

**ZONING FROM:** SF-3-H **TO:** MF-4; MF-4-H **AREA:** 1.78 acres

**SUMMARY STAFF RECOMMENDATION:** *Revised 4/17/2008*

The Staff's recommendation is to grant multi-family residence (moderate-high density) – historic (MF-4-H-CO) combining district zoning.

The Conditional Overlay provides a 25-foot vegetative buffer around the site of the ruins. Improvements permitted within the buffer zone are limited to sidewalks, drainage, underground utility improvements or those improvements that may be otherwise required by the City of Austin.

### **HISTORIC LANDMARK COMMISSION RECOMMENDATION:**

July 23, 2007: *RECOMMENDED A ZONING CHANGE TO FAMILY RESIDENCE – HISTORIC (SF-3-H) DISTRICT ZONING FOR THE RUINS AND A 40-FOOT BUFFER ZONE AROUND THE RUINS, AND MULTI-FAMILY RESIDENCE (MEDIUM DENSITY) HISTORIC (MF-3-H) DISTRICT ZONING FOR THE REMAINDER OF THE TRACT.*  
*[J. ARRIAGA, R. AREND – 2ND] (4-1, MATHER – NAY)*

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

October 16, 2007: *APPROVED A POSTPONEMENT REQUEST BY THE APPLICANT TO 11/20/07.*

*[J. MARTINEZ, S. HALE 2<sup>ND</sup>] (6-0) C. HAMMOND, J. GOHIL – ABSENT*

November 20, 2007: *APPROVED THE FOOTPRINT OF THE HISTORIC STRUCTURE TO REMAIN SF-3-H ZONING; BALANCE OF TRACT TO BE ZONED MF-3; CONDOMINIUMS, TOWN HOUSE RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL (ANY USE HIGHER THAN SF-3) WOULD REQUIRE SITE PLAN APPROVAL BY ZAP COMMISSION AND A 25 FT. COMPATIBILITY SETBACK AROUND THE SITE OF THE RUINS.*

*[K. JACKSON, J. MARTINEZ – 2<sup>ND</sup>] (7-0) S. HALE – ABSENT*

**ISSUES:**

The proposed apartments will be constructed around the site of the Sebron Sneed House ruins, and the developer must obtain a Certificate of Appropriateness from Historic Landmark Commission at the time of site plan. The H, Historic designation would also be reduced in size to the site of the ruins.

**DEPARTMENT COMMENTS:**

The subject property is an unplatted tract that contains the ruins of the Sebron Sneed House and is located at northeast corner of Bluff Springs Road and Nelms Drive. The portion of the property that contains the ruins is zoned family residence – historic (SF-3-H) and the remainder is zoned family residence (SF-3). The property is surrounded by apartments to the north, east and south (MF-3) and commercial uses that front onto the northbound IH-35 Service Road are located to the west, across Bluff Springs Road (GR-CO). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant has submitted a rezoning request to the multi-family residence moderate – high density (MF-4) district in order to develop apartments. Consistent with the zoning of properties on three sides and recognizing the established commercial corridor between Bluff Springs Road and the IH-35 frontage road, Staff supports multi-family residence (medium density) (MF-3) zoning with a Conditional Overlay that incorporates the recommendation of the Historic Landmark Commission to provide a 40-foot buffer around the site of the ruins of the Sebron Sneed House.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3; SF-3-H	Ruins of the Sebron Sneed House
<i>North</i>	MF-3	Apartments
<i>South</i>	MF-3	Apartments
<i>East</i>	MF-3	Apartments
<i>West</i>	GR-CO	Undeveloped; Commercial businesses fronting on the northbound IH-35 service road

**AREA STUDY:** N/A

**TIA:** Is not required

**WATERSHED:** Williamson Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

27 – Franklin Park Neighborhood Association

96 – Southeast Corner Alliance of Neighborhoods (SCAN)  
 300 – Terrell Lane Interceptor Association  
 428 – Barton Springs / Edwards Aquifer Conservation District  
 511 – Austin Neighborhoods Council      627 – Onion Creek Homeowners Association  
 742 – Austin Independent School District  
 743 – Southeast Austin Trails & Greenbelt Alliance  
 786 – Home Builders Association of Greater Austin

**SCHOOLS:**

Perez Elementary School      Mendez Middle School      Akins High School

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-90-0036 – University Federal Savings Association	GR; GR-CO to GR, to change conditions of zoning	To Grant GR-CO	Approved GR-CO with CO for an FAR limit of 0.24 to 1 (10-4-90).
C14-88-0059 – Duke Properties	MF-3 to GR-CO	To Grant GR-CO	Approved GR-CO with FAR limit of 0.24 to 1 (8-25-88).
C14-88-0058 – Bluff Springs Center	LO; LR; CS to GR	To Grant GR-CO	Approved GR-CO with FAR limit of 0.25 to 1 and conditions of the TIA (8-25-88).

**RELATED CASES:**

There are no pending subdivision or site plan applications on the subject property.

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Bicycle Plan	Sidewalks	Capital Metro
Nelms Drive	70 feet	40 feet	Collector	No	North side of the street	Yes
Bluff Springs Road	80 feet	50 feet	Collector	No	No	Yes

**CITY COUNCIL DATE:** April 24, 2008

**ACTION:** Approved MF-4-H-CO district zoning on First Reading (6-0, McCracken – off the dais).

August 7, 2008

**ORDINANCE READINGS:** 1<sup>st</sup> April 24, 2008      2<sup>nd</sup>      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Jerry Rusthoven  
e-mail: jerry.rusthoven@ci.austin.tx.us

**PHONE:** 974-3207





**REZONING REQUEST**

**C14-2007-0042 - 1801 Nelms Drive**

**From: SF-3-H**

**To: MF-4; MF-4-H**





**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant multi-family residence (moderate-high density) – historic (MF-4-H-CO) combining district zoning.

The Conditional Overlay provides a 25-foot vegetative buffer around the site of the ruins. Improvements permitted within the buffer zone are limited to sidewalks, drainage, underground utility improvements or those improvements that may be otherwise required by the City of Austin.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

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

The MF-4, Multifamily Residence (Moderate-High Density) district is intended for multifamily developments with a maximum density of up to 54 units per acres located near supporting transportation and commercial facilities.

2. *Zoning changes should promote an orderly and compatible relationship among land uses.*

Consistent with the zoning of properties on three sides and recognizing the established commercial corridor between Bluff Springs Road and the IH-35 frontage road, Staff supports multi-family residence moderate-high density (MF-4) zoning with a Conditional Overlay that incorporates the recommendation of the Historic Landmark Commission to provide a 40-ft buffer around the site of the ruins of the Sebron Sneed House.

**EXISTING CONDITIONS****Site Characteristics**

The property consists of the ruins of the Sebron Sneed House and is surrounded by undeveloped land. There appear to be no significant topographical constraints on the site.

**Impervious Cover**

The maximum impervious cover allowed by the MF-4 zoning district would be 60%, which is based on the more restrictive watershed regulations.

**Environmental**

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson 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. 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 Net Site Area</i>	<i>% 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%

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

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

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

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

### **Transportation**

No additional right-of-way is needed at this time.

The trip generation under the requested zoning is estimated to be 385 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at his own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and abandonments. The water and wastewater plan must be in accordance with

the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction.

### **Site Plan & Compatibility Standards**

It appears a portion of this site is zoned historic. The City Historic Preservation Officer will review all proposed zoning changes regarding city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property. Please contact the Historic Preservation Officer at 974-6454 for additional information [Chapter 25-11]. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval.

Site plans will be required for any new development other than single-family or duplex residential.

**CITY OF AUSTIN - HISTORIC LANDMARK COMMISSION**

**REGULAR MEETING AGENDA**

**AUGUST 27, 2007 - 7:00 PM**

**CALL TO ORDER**

<input type="checkbox"/> Laurie Limbacher, Chair	Absent
<input type="checkbox"/> Julia Bunton, Vice-Chair	In Attendance
<input type="checkbox"/> Rodger Arend	In Attendance
<input type="checkbox"/> Joe Arriaga	Absent
<input type="checkbox"/> Patti Hansen	In Attendance
<input type="checkbox"/> Timothy Cuppett	In Attendance
<input type="checkbox"/> Jean Mather	In Attendance
<input type="checkbox"/> Daniel Leary	In Attendance
<input type="checkbox"/> John Rosato	In Attendance

**A. CITIZEN'S COMMUNICATIONS**

The first four (4) speakers signed up to speak will each be allowed four (4) minutes to address their concerns.

No Speakers

**B. PUBLIC HEARING TO DISCUSS AND TAKE ACTION ON HISTORIC ZONING CASES**

**1. C14-2007-0042**

Sebron Sneed House, 1801 Nelms Street

Applicant: Invest Smart Homes, Inc.

City Staff: Steve Sadowsky, Historic Preservation Office, 974-6454

Staff Recommendation: Approve the requested zoning change.

Commission Action: Arend/Cuppett

Motion: Recommend the proposed zoning change from Single-Family Residence, Historic (SF-3-H) to Single Family – Historic (SF-3-H) for the ruins with a minimum 40-foot buffer around the exterior of the ruins and Multi-family Residence – Historic (MF-3-H) for the remainder of the site.

Ayes: Arend, Bunton, Cuppett, Hansen, Leary, and Rosato

Nays: Mather

Absent: Arriaga and Limbacher

Motion carried by a vote of 6-1; No speakers; Public hearing was closed.

## ZONING CHANGE REVIEW SHEET

CASE: C14-2007-0042

HLC DATE: June 25, 2007  
 July 23, 2007  
 August 27, 2007

ADDRESS: 1801 Nelms Drive (Sebron Sneed House)

ZAP DATE:  
COUNCIL DATE:

OWNERS: Invest Smart Homes, Inc.  
 (Todd Rayer)

AGENT: Thrower Design (A. Ron  
 Thrower)

ZONING FROM: SF-3-H

TO: GR-MU-CO-H, with the conditional overlay limiting the commercial  
 uses to those allowed under the LR district

AREA: 1.78 acres

STAFF RECOMMENDATION: Multi-Family Residence – Moderate-High Density (MF-4-H)  
 with the requirement that there be at least a 40-foot “buffer zone” between the exterior  
 walls of the ruins and the exterior walls of the proposed multi-family development.

### DEPARTMENT COMMENTS:

The home on this site was zoned historic in 1979 to honor Judge Sebron Sneed with the  
 surrounding site having been rezoned historic in 1980. The house was destroyed by fire  
 many years ago and the ruins remain (see attached photographs). Travis County foreclosed  
 on the home for taxes owed and the site was recently purchased from the County by a  
 private owner.

In January and February, 2007, the owner presented plans to the Historic Landmark  
 Commission (HLC) for a Certificate of Appropriateness on the treatment of the ruins. The  
 HLC granted a Certificate of Appropriateness in April, 2007 for stabilization of the ruins  
 and indicating that the applicant's proposal constituted the minimum of the preservation  
 work approved for the site. The applicant proposes a multi-family residential project two  
 stories tall surrounding the proposed plaza incorporating the ruins.

The applicant is now requesting a change in the base zoning to GR-MU-CO-H, Community  
 Commercial-Mixed Use-Conditional Overlay-Historic zoning. The conditional overlay  
 proposed would limit the commercial uses to those allowed under the less intense, LR,  
 Neighborhood Commercial, zoning district. The applicant maintains that the primary use of  
 the site would be residential though the GR-MU zoning does not require a mix of uses on  
 the site and would permit entirely GR development. Regardless of the zoning, any new  
 construction will be reviewed for a Certificate of Appropriateness by the HLC.

The Zoning Staff recommends the applicant's original rezoning request of MF-4-H. MF-4  
 zoning is intended for multifamily and group residential use with a maximum density of 36  
 to 54 units per acre, depending on unit size. The Land Development Code provides that an  
 MF-4 district designation may be applied to high density housing in a centrally located area  
 near supporting transportation and commercial facilities or in an area for which moderate  
 to high density multifamily use is desired.

In addition, the Historic Preservation Office recommends that there be a buffer of at least 40 feet between the outside edge of the walls of the ruins and the outside edge of any new multi-family development on the site. The 40-foot distance is consistent with the conceptual plans presented to the Historic Landmark Commission by the applicant under the application for a Certificate of Appropriateness in April, 2007.

The site is surrounded by MF-3, Multi-Family Residence – Medium Density, zoning that has been developed (see aerial). Across Bluff Springs Road is GR-CO zoning that has been developed as a retail shopping center that contains a Target retail store and pad sites. Commercial and transportation facilities are available along IH-35 and William Cannon.

Given the intensity of the MF-3 and GR zoning in the area, the proximity to IH-35, and relative proximity to downtown (6.8 miles to Guadalupe and Cesar Chavez), MF-4 zoning would not be inappropriate in this area. While the density allowed would be higher than the density permitted under the surrounding MF-3 sites, this site is significantly smaller (see zoning map for scale) and MF-4 zoning would provide for a mix of densities but at a compatible level. Therefore, the MF-4 zoning can provide a transition from the GR zoning to the MF-3 zoning.

#### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-H	Sebron Sneed Home ruins
<i>North</i>	MF-3	Apartments
<i>South</i>	MF-3	Apartments
<i>East</i>	MF-3	Apartments
<i>West</i>	GR-CO	Shopping center (including Target retail store) and pad sites (including restaurants and drive-throughs); Northeast corner is undeveloped

**AREA STUDY:** N/A

**TRAFFIC IMPACT ANALYSIS (TIA):** Not Required

**WATERSHED:** Williamson Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

#### **NEIGHBORHOOD ORGANIZATIONS:**

627--Onion Creek Homeowners Assoc.  
 511--Austin Neighborhoods Council  
 428--Barton Springs/ Edwards Aquifer Conservation Dist.  
 300--Terrell Lane Interceptor Assn.  
 96--Southeast Corner Alliance of Neighborhoods (SCAN)  
 27--Franklin Park Neighborhood Assn.  
 742--Austin Independent School District  
 743--Southeast Austin Trails & Greenbelt Alliance  
 786--Home Builders Association of Greater Austin



**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Nelms Drive	70'	40'	Collector	North side of street	Yes	No
Bluff Springs Road	80'	50'	Collector	No	Yes	No

**CITY COUNCIL DATE:****ACTION:****ORDINANCE READINGS:** 1st

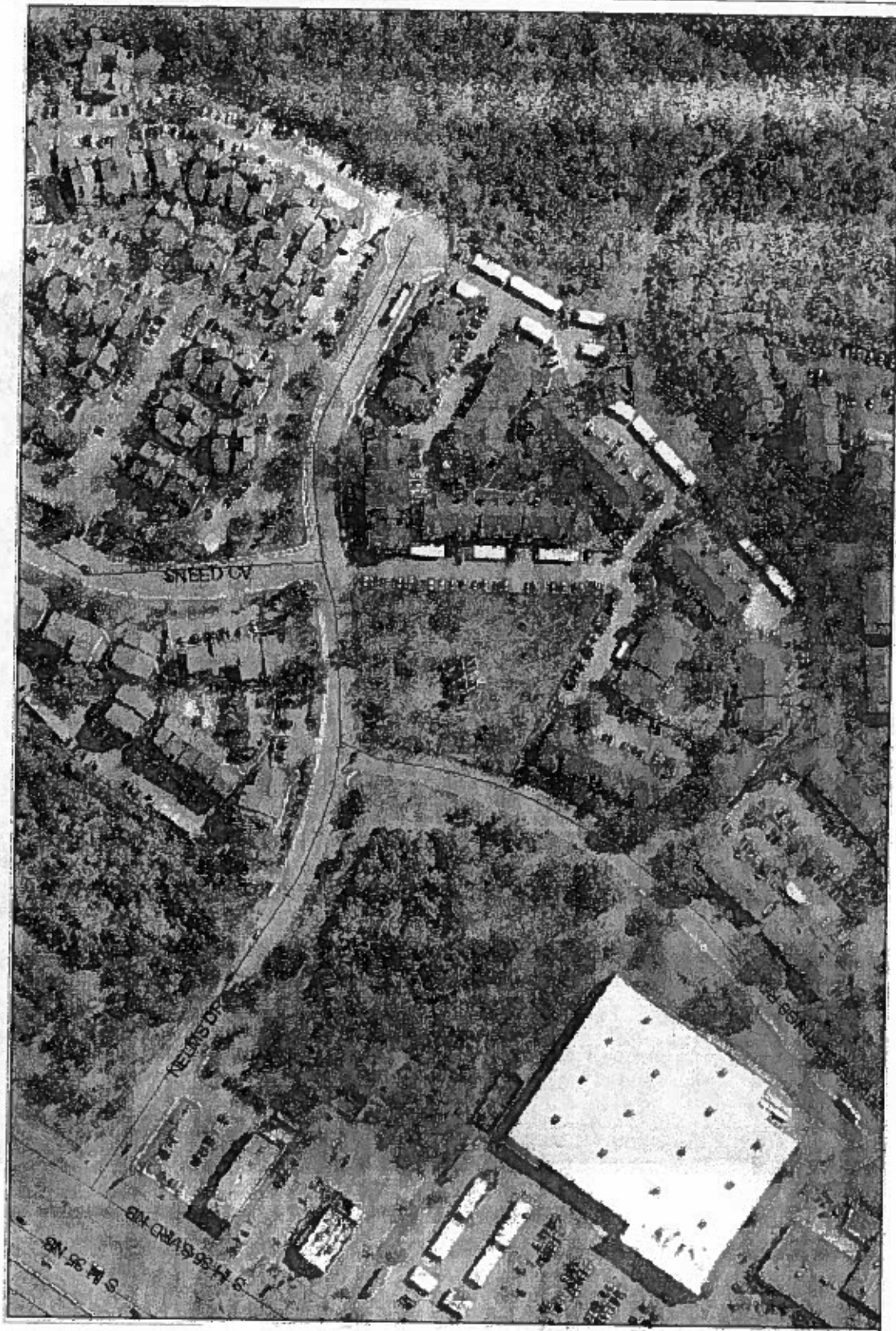
2nd

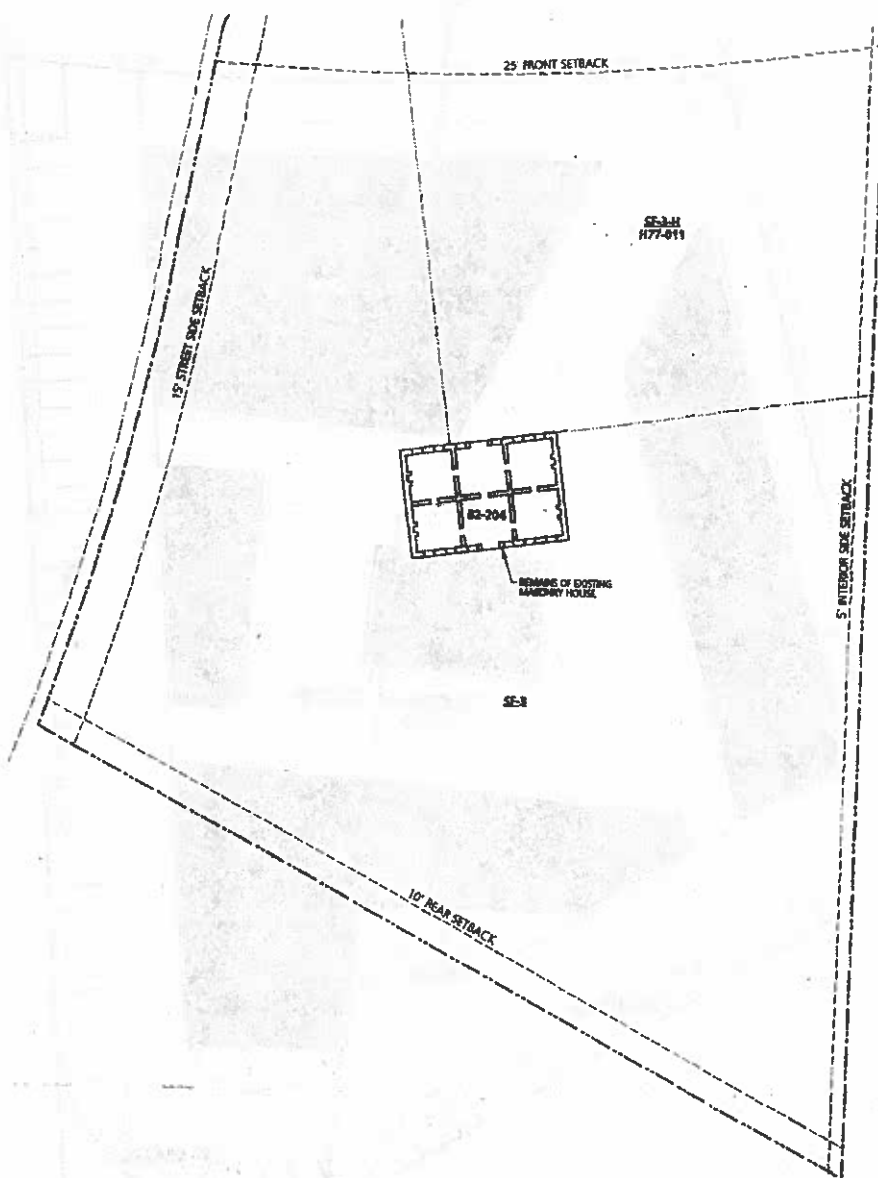
3rd

**ORDINANCE NUMBER:****REZONING CASE MANAGER:** Tina Bui**PHONE:** 974-2275**EMAIL:** tina.bui@ci.austin.tx.us**HISTORIC PRESERVATION STAFF:**

Steve Sadowsky, Historic Preservation Officer

**PHONE:** 974-6454**EMAIL:** steve.sadowsky@ci.austin.tx.us





**1 EXISTING SITE & STRUCTURE PLAN**  
SCALE: 1/32" = 1'-0"

## STAFF RECOMMENDATION

## Multi-Family Residence – Moderate-High Density (MF-4-H)

## BASIS FOR RECOMMENDATION

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

MF-4 zoning is intended for multifamily and group residential use with a maximum density of 36 to 54 units per acre, depending on unit size. The Land Development Code provides that an MF-4 district designation may be applied to high density housing in a centrally located area near supporting transportation and commercial facilities or in an area for which moderate to high density multifamily use is desired.

This site is relatively close to downtown, being about 6.8 miles away from Cesar Chavez and Guadalupe. Commercial and transportation facilities are located along IH-35 and William Cannon.

*Zoning changes should promote compatibility with adjacent and nearby uses.*

*Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.*

The site is surrounded by MF-3, Multi-Family Residence – Medium Density, zoning that has been developed. Across Bluff Springs Road is GR-CO zoning that has been developed as a retail shopping center that contains a Target retail store and pad sites. (See aerial.)

MF-4 would not be incompatible with these fairly intensive zoning districts. While the density allowed would be higher than the density permitted under the surrounding MF-3 sites, this site is significantly smaller (see zoning map for scale) and MF-4 zoning would provide for a mix of densities but at a compatible level. Therefore, the MF-4 zoning can provide a transition from the GR zoning to the MF-3 zoning.

## EXISTING CONDITIONS

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson 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. 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 Net Site Area</i>	<i>% 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%

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

**Water/Wastewater**

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 the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and abandonments. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction.



**Levinski, Robert**

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**From:** Levinski, Robert  
**Sent:** Wednesday, April 09, 2008 9:34 AM  
**To:** 'Ron Thrower'  
**Cc:** Rusthoven, Jerry  
**Subject:** RE: Nelms  
**Attachments:** 2007-11-20 Annotations & Summary agenda.doc

Ron,

I had to have our ZAP administrator go back through and record the conversation to make sure.

Yes, the commission recommended a 25-ft. setback. I'll talk to Jerry and send a note to the council aides to make sure they know the extent of ZAP's recommendation.

*"I make a motion to zone the footprint of the historic structure stay SF-3-H; the balance of the tract zoned MF-3; the site plan go to Historic Landmark Commission for review; compatibility setback of 25-feet, zoning setbacks will remain as they are currently."*

*"Okay, so my amended motion would be that the historic structure remain SF-3-H with the balance of the tract zoned MF-3, any use higher than SF-3 (condominiums, townhouse residential, multi-family residential) would require site plan approval by the commission."*

Robert J. Levinski  
Zoning Case Manager  
Neighborhood Planning and Zoning Department,  
City of Austin

512-974-1384 (direct)  
512-974-2269 (fax)

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**From:** Ron Thrower [mailto:Ron@throwerdesign.com]  
**Sent:** Wednesday, April 09, 2008 9:02 AM  
**To:** Ron Thrower; Levinski, Robert  
**Cc:** Rusthoven, Jerry  
**Subject:** RE: Nelms

Bobby,

I need to get an answer to the question below about the ZAPCO setback.

**Ron Thrower**

*Thrower Design*

4608-A South Lamar Blvd.  
Austin, Texas 78745  
512/476-4456  
512/476-4454 fax

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4/17/2008

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**From:** Ron Thrower  
**Sent:** Tuesday, April 08, 2008 9:38 AM  
**To:** 'Levinski, Robert'  
**Cc:** Rusthoven, Jerry  
**Subject:** RE: Nelms

Bobby,

Thanks for refreshing my memory. All I can attribute this to would be the flu and relapse that I had sometime last month. I lost some brain cells during that time. And lost track of time as well.

But in regards to the setback – didn't ZAPCO reduce this to 25'?

**Ron Thrower**  
*Thrower Design*

4608-A South Lamar Blvd.  
Austin, Texas 78745  
512/476-4456  
512/476-4454 fax

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**From:** Levinski, Robert [mailto:Robert.Levinski@ci.austin.tx.us]  
**Sent:** Tuesday, April 08, 2008 9:34 AM  
**To:** Ron Thrower  
**Cc:** Rusthoven, Jerry  
**Subject:** RE: Nelms

Ron,

We've already talked about this. We agreed to revert the staff recommendation back to MF-4 but would keep the conditional overlay. This buffer was in the staff recommendation when the case was presented to the Planning Commission.

Please see the attached email dated March 24, 2008.

As you are well aware, the staff recommendation is purely advisory. It is up to the City Council to make the final determination on the case.

Thanks,

Bobby

Robert J. Levinski  
Zoning Case Manager  
Neighborhood Planning and Zoning Department,  
City of Austin

512-974-1384 (direct)  
512-974-2269 (fax)

4/17/2008

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**From:** Ron Thrower [mailto:Ron@throwerdesign.com]  
**Sent:** Tuesday, April 08, 2008 8:11 AM  
**To:** Levinski, Robert  
**Cc:** Rusthoven, Jerry  
**Subject:** Nelms

Bobby,

Not sure if this is your case now, but – When did staff make a part of their recommendation to add the 40' buffer? This was not a part of the original staff recommendation. No new information came forward for staff to change the recommendation that I was made aware of along the way. I have a meeting with council aides today and I'm finding this new staff recommendation very disconcerting. In the past it has just been a staff recommendation of "MF-4-H".

**Ron Thrower**  
*Thrower Design*

4608-A South Lamar Blvd.  
Austin, Texas 78745  
512/476-4456  
512/476-4454 fax

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that any use, dissemination, distribution, or copying of this communication or any attachment is strictly prohibited. In such event, please contact the sender immediately and delete all copies of this communication and any attachment.

4/17/2008

4. **Rezoning:** C14-2007-0213 - 3900 Pearce Rd.  
**Location:** 3900 Pearce Rad, Hog Pen Creek; Lake Austin Watershed  
**Owner/Applicant:** Luxor Custom Homes (Nora Killinger and Blair Drenner)  
**Agent:** Luxor Custom Homes (Nora Killinger)  
**Request:** DR to RR  
**Staff Rec.:** **Recommended**  
**Staff:** Jorge E. Rousselin, 974-2975, jorge.rousselin@ci.austin.tx.us  
 Neighborhood Planning and Zoning Department

**APPROVED STAFF'S RECOMMENDATION FOR RR ZONING.**  
**[K.JACKSON, J.SHIEH 2<sup>ND</sup>] (7-0) S.HALE – ABSENT**

5. **Rezoning:** C14-2007-0042 - 1801 Nelms Drive  
**Location:** 1801 Nelms Drive, Williamson Creek Watershed  
**Owner/Applicant:** Invest Smart Homes, Inc. (Todd Rayer)  
**Agent:** Thrower Design (Ron Thrower)  
**Request:** SF-3; SF-3-H to MF-4; MF-4-H  
**Staff Rec.:** **Recommendation of MF-3-H-CO**  
**Staff:** Jerry Rusthoven, 974-3207, jerry.rusthoven@ci.austin.tx.us  
 Neighborhood Planning and Zoning Department

**APPROVED THE FOOTPRINT OF THE HISTORIC STRUCTURE TO REMAIN SF-3-H ZONING; BALANCE OF TRACT TO BE ZONED MF-3; CONDOMINIUMS, TOWN HOUSE RESIDENTIAL AND MULTI-FAMILY RESIDENTIAL (ANY USE HIGHER THAN SF-3) WOULD REQUIRE SITE PLAN APPROVAL BY ZAP COMMISSION.**  
**[K.JACKSON, J.MARTINEZ 2<sup>ND</sup>] (7-0) S.HALE – ABSENT**

### **SUMMARY**

*Jerry Rusthoven, staff, gave staff presentation.*

*Commissioner Jackson – How did the Historic Commission arrive at a 40-foot setback?*

*Mr. Rusthoven – In April the applicant filed a certificate of appropriateness for a proposed apartment complex around this; at that time staff recommended a 40-foot setback from the ruins of the house, the applicant agreed to that and the Landmark Commission agreed to that as well.*

*Commissioner Shieh – Did HLC discuss how it was going to be separated?*

*Mr. Rusthoven – The only thing I recall is a natural 40-foot distance, I don't recall anything about a fence; maybe the applicant will know.*

*Ron Thrower, applicant – The 40-foot setback is encumbering and we would like to see the MF-4 on the entire site and not have the 40-foot setback on the property; we cannot live with the 40-foot setback on this property.*

*Commissioner Shieh – If there isn't a setback, how will you address the ruins? How will you ensure the protection when people climb all over it?*

*Mr. Thrower – The existing structure is deteriorating, it can be maintained and structurally sound, we can even put a fence. As for the setback, we're dealing with a setback that's not going to work for us.*

**FAVOR**

*No Speakers.*

**OPPOSITION**

*No Speakers.*

*Commissioner Baker – This structure has more history than any other structure than any other structure. This structure has been involved in a fire; I don't think there's any plans for this structure. The applicant knew this was historic when he purchased it and he knew the constraints on this property. I'm disappointed with staff's recommendation and I'm disappointed with Historic Landmark's recommendation; this should remain historic.*

*Commissioner Jackson – What are you wrapped around here?*

*Commissioner Baker – I'm wrapped around the fact that it should remain historic and the rest should be zoned MF-3.*

*Commissioner Jackson – Are you suggesting that the house footprint should be zoned SF-3-H and the rest MF-3.*

*Commissioner Baker – Yes.*

*Commissioner Hammond – The footprint of the historic home remain SF-3-H, what sort of compatibility issues do we have with letting the applicant wrap an apartment complex around it?*

*Mr. Rusthoven – There would be a 25-foot buffer where nothing can occur. There will be a two-step height limit involved and it will cap out at 40-feet.*

*Commissioner Jackson – Can we waive the compatibility requirement?*

*Mr. Rusthoven – They can get a variance from the Board of Adjustment, we can not do it now with the zoning case.*

*Commissioner Hammond – I think a 25-foot setback is adequate. This might not seem like the best solution, but if left as it is that house will be totally destroyed.*

*Commissioner Baker – I regretfully agree with you Commissioner. This structure is visible from Nelms; this is not easy; this is a unique situation.*



*Commissioner Rabago – I believe this structure has been forgotten by many; no one was taking care of this structure. We don't want to overlook the value of historic structures.*

*Motion made to close the public hearing.*

**MOTION**

*Commissioner Jackson – I make a motion to zone the footprint of the historic structure stay SF-3-H; the balance of the tract zoned MF-3; the site plan go to Historic Landmark Commission for review; compatibility setback of 25-feet, zoning setbacks will remain as they are currently.*

*Mr. Rusthoven – The only way we can send the site plan to HLC is if it were zoned historic as the time the site plan comes in.*

*Commissioner Jackson – I believe we can send it there.*

*Mr. Rusthoven – It will be an administratively approved site plan.*

*Commissioner Baker – Can we ask legal to not let it be administratively approved?*

*Clark Cornwell, legal attorney – I'll need to consult with other staff before I can answer your legal question.*

*Mr. Rusthoven – I do have an idea on how we can make this case come to this commission, we have done this before; we can make multi-family residential a conditional use, that would require it to come back and at that time you can forward to HLC for review.*

*Commissioner Jackson – Okay, so my amended motion would be that the historic structure remain SF-3-H with the balance of the tract zoned MF-3, any use higher than SF-3 (condominiums, townhouse residential, multi-family residential) would require site plan approval by the commission.*

*Commissioner Martinez – Second.*

*Motion carried.*