

## ZONING CHANGE REVIEW SHEET

CASE: C14-2022-0142 (Birgani's Property)

DISTRICT: 6

ADDRESS: 12604 Blackfoot Trail

ZONING FROM: SF-1

TO: GR-MU

SITE AREA: 0.34 acres (15,100 sq. ft.)

PROPERTY OWNER: Abraham Birgani

CASE MANAGER: Sherri Sirwaitis (512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov))

STAFF RECOMMEDATION:

**Staff recommends LO-MU, Limited Office-Mixed Use Combining District, zoning.**

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

**January 17, 2023: Postponed to February 7, 2023 at the staff's request by consent (9-0, N. Barrera-Ramirez and R. Woody-absent), A. Denkler-1st, L. Stern-2nd.**

**February 7, 2023: Postponed to February 21, 2023 at the neighborhood's request by consent (8-0, C. Acosta-arrived late, S. Boone-absent); D. King-1st, A. Denkler-2nd**

**February 21, 2023**

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question was fully annexed by the City on December 31, 1997 and is currently developed with a single family residence that is zoned SF-1. To the north there is a single family residential neighborhood with SF-1 zoning. The tract of land to the south is zoned GR-MU-CO and is developed with a residence and a retail sales use. To the east, across Blackfoot Trail, there are additional single family residences zoned SF-1. The lot to the west, has RR zoning and is developed with a day care facility (Stepping Stone School) that fronts onto McNeil Drive.

In 1999, the property directly to the south at 12602 Blackfoot Trail was rezoned from SF-1 to SF-2 (Tract 1) and SF-1 to LR-CO (Tract 2) through zoning case C14-98-0146. Ordinance No. 9907722-46 required a solid fence along the eastern property line, limited any building on the site being taller than 20 ft. in height, restricted pedestrian and vehicular access on Blackfoot Trail and prohibited seventeen uses on the site. In 2017, the applicant requested a rezoning of both tracts to CS-MU zoning, through case C14-2017-0040. The Zoning and Platting Commission recommended maintaining SF-2 zoning on Tract 1 fronting Blackfoot Trail and GR-MU-CO zoning for the Tract 2/the southern tract fronting McNeil Drive. On December 14, 2017, the City Council granted GR-MU-CO zoning for both tracts, with a public restrictive covenant to prohibit access to Blackfoot Trail (*please see Ordinance No. 20171214-102- Exhibit D*).

In this new application, the same property owner is requesting a rezoning of a residential lot to the north from SF-1 to GR-MU to develop undetermined uses on the site. According to the deed, Mr. Birgani purchased this lot in 2014. In 1985, an amendment to the conditions of the deed was processed to remove the restriction that stated, "Said land shall be used for residential purposes only and no commercial use shall be made thereof." (*please see Information Provided by the Applicant - Exhibit C*).

The staff recommends LO-MU, Limited Office-Mixed Use Combining District, zoning for this property. The site under consideration meets the purpose statement of the LO-MU districts. The proposed office-mixed use zoning will provide a transition in the intensity of permitted uses on the site from the GR-MU-CO zoning at the intersection of McNeil Drive and Blackfoot Trail to the single family residential uses/neighborhood (SF-1 zoning) to the north and east. The requested GR-MU zoning is a commercial-mixed use category that permits more intensive uses that are not compatible with a residential setting or along a residential street. The lot under consideration does not meet the intent of the GR district as it is located mid block and takes access to a Level 1/ neighborhood collector street, instead of a major traffic way.

Limited Office-Mixed Use zoning is compatible with the single family residential uses to the north and east of the site. LO-MU zoning will permit a mixture of low intensity office, commercial, civic and residential uses that will provide services for residential developments to the north and east of the property under consideration.

BASIS OF RECOMMENDATION:

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

Limited Office district is intended for offices predominately serving neighborhood or community needs, which may be located within or adjacent to residential neighborhoods.

The purpose of a mixed use (MU) combining district is to allow office, retail, commercial, and residential uses to be combined in a single development.

The property in question is located within a residential neighborhood along Blackfoot Trail, a 40-foot wide neighborhood collector roadway.

2. *The proposed zoning should promote consistency and orderly planning.*

LO-MU zoning will promote consistency and orderly planning as it will provide a transition in the intensity of uses from the commercial-mixed use zoning at the southwest corner of Blackfoot Trail and McNeil Drive to single-family uses to the north. The proposed zoning is compatible with the surrounding residential uses located to the north and east of the site.

3. *The proposed zoning should allow for a reasonable use of the property.*

The proposed LO-MU zoning will allow for neighborhood friendly low density office, commercial, civic uses that will provide services for single-family residences to the north of this site.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-2	Single Family Residence
<i>North</i>	SF-1	Single Family Residences
<i>South</i>	GR-MU-CO	General Retail Sales-Convenience
<i>East</i>	SF-1	Single Family Residences
<i>West</i>	RR	Day Care (Stepping Stone School)

NEIGHBORHOOD PLANNING AREA: N/A

TIA: Deferred to the time of Site Plan

WATERSHED: Rattan Creek

SCHOOLS: Round Rock I.S.D.

NEIGHBORHOOD ORGANIZATIONS:

Austin Lost and Found Pets  
Friends of Austin Neighborhoods  
Homeless Neighborhood Association  
Neighborhood Empowerment Foundation  
SELTEXAS  
Sierra Club, Austin Regional Group  
TNR BCP- Travis County Natural Resources

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
<b>C14-2017-0042 (12602 Blackfoot Trail)</b>	LR-CO, SF-2 to CS-1-MU* *On May 16, 2017, the applicant submitted a letter amending the rezoning request to CS-MU.	8/15/17: Approved maintaining SF-2 zoning for the existing Tract 1 and GR-MU-CO zoning for the existing Tract 2, with the following conditions for Tract 2: 1) Prohibit Alternative Financial Services, Automotive Washing (of any type), Bail Bond Services, Drop-Off Recycling Collection Facility, Medical Office-exceeding 5,000 sq. ft. gross floor area, Medical Offices-not exceeding 5,000 sq. ft. gross floor area, Outdoor Entertainment, Pawn Shop Services, Service Station, Congregate Living, Guidance Services, Hospital Services (General), Hospital Services (Limited), Residential Treatment and Drive-In Services and 2) maintain the condition from Ordinance No. 9907722-46 that, "Pedestrian and vehicular traffic associated with a non-residential use on the Property may not access Blackfoot Trail." (7-0, D. Breithaupt, B. Evans, S. Lavani and S. Trinh-absent); J. Duncan-1 <sup>st</sup> , A. Aguirre-2 <sup>nd</sup> .	12/07/17: Motion to approve GR-MU zoning, with a public restrictive covenant document to include the provision to restrict vehicular access from the Property to Blackfoot Trail. J. Flannigan-1 <sup>st</sup> , G. Casar-2 <sup>nd</sup> .  Proposed amendment to include the provision to restrict vehicular access from the Property to Blackfoot Trail in a conditional overlay in the draft ordinance (4-5, S. Adler, O. Houston, G. Casar, A. Kitchen, J. Flannigan-No; D. Garza and E. Troxclair-off dais); K. Tovo, L. Pool-2 <sup>nd</sup> .  Main motion to approve GR-MU zoning, with access restriction in a public restrictive covenant document, on 2 <sup>nd</sup> reading only (6-3, A. Alter, L. Pool and K. Tovo-No; D. Garza and E. Troxclair-off the dais).  12/14/17: A motion to approve the ordinance for GR-MU-CO district zoning, with conditions, was made by Council Member Flannigan and seconded by Council Member Houston.
C14-2016-0123 (6914 McNeil Dr.)	I-RR to GR	1/17/17: Approved staff's recommendation of GR-CO zoning, with CO to prohibit with additional conditions to prohibit Automotive Rentals Automotive Repair Services Automotive Sales, Automotive Washing (of any type), Bail Bond Services, Commercial Off-Street Parking, Drop Off Recycling Facility, Exterminating Services, Funeral Services, Pawn Shop Services Research Services, Service Station, with additional	1/26/17 : Approved Zoning and Platting Commission's recommendation of GR-CO zoning, with conditions, on 1 <sup>st</sup> reading on consent (11-0); D. Garza-1 <sup>st</sup> , P. Renteria-2 <sup>nd</sup> .  The following additional conditions are added to the ordinance: Part 2: The Property with the boundaries of the conditional overlay combining district established by the ordinance is subject to the following conditions:

		<p>conditions to prohibit Hospital Services, Alternative Financial Services, and Drive-In Services uses and to include a public restrictive covenant to require the installation of sidewalks and sidewalk improvements (8-2, J. Kiolbassa, B. Greenberg-No; D. Breithaupt-absent); S. Harris-1<sup>st</sup>, B. Evans-2<sup>nd</sup>.</p>	<p>The following uses are prohibited uses for the Property:</p> <ul style="list-style-type: none"> <li>A. Restaurants (general).</li> <li>B. Liquor sales as an accessory use to commercial uses is prohibited.</li> </ul> <p>In addition, the motion included the approval of the new restrictive covenant to prohibit vehicular traffic associated with non-residential use on property to Blackfoot Trail.</p> <p>A substitute motion was made by Council Member Pool to approve the ordinance for neighborhood commercial –mixed use (LR-MU) combining district zoning with a conditional overlay to prohibit Restaurant (general) use, and liquor sales use as an accessory use to commercial use. The substitute motion failed on Council Member Pool's motion, Mayor Pro Tem Tovo's second on a 3-8 vote. Those voting aye were: Mayor Pro Tem Tovo, Council Members Alter and Pool. Those voting nay were: Mayor Adler, Council Members Casar, Flannigan, Garza, Houston, Kitchen, Renteria, and Troxclair.</p> <p>A motion to approve the provision with vehicular traffic to be included in the conditional overlay rather than the restrict covenant failed on Mayor Pro Tem Tovo's motion, Council Member Pool's second on a 3-8 vote. Those voting aye were: Mayor Pro Tem Tovo, Council Members Alter and Pool. Those voting nay were: Mayor Adler, Council Members Casar, Flannigan, Garza, Houston, Kitchen, Renteria, and Troxclair.</p> <p>Ordinance No. 20171214-102 was approved for community commercial-mixed use combining (GR-MU) district zoning with the additional conditions listed above on Council Member Flannigan's</p>
--	--	--	---

			motion, Council Member Houston's second on an 11-0 vote.
C14-2015-0136 (6914 McNeil Dr.)	I-RR to GR	<p>11/17/15: Postponed at the applicant's request to December 15, 2015 (10-0); A. Denkler-2<sup>nd</sup>, B. Evans-2<sup>nd</sup>.</p> <p>12/15/16: Postponed at the applicant's request to January 5, 2016 (7-0, D. Breithaupt, Y. Flores, S. Harris-absent); B. Evans-1<sup>st</sup>, S. Lavani-2<sup>nd</sup>.</p> <p>01/05/16: Postponed at the applicant's request to January 19, 2016 (8-0, S. Lavani-absent, J. Goodman-arrived late); T. Webber-1<sup>st</sup>, A. Denkler-2<sup>nd</sup>.</p> <p>01/19/16: Postponed at the applicant's request to February 2, 2016 (10-0); T. Webber-1<sup>st</sup>, S. Lavani-2<sup>nd</sup>.</p> <p>02/02/16: Approved applicant's request for an indefinite postponement (10-0); J. Goodman-1<sup>st</sup>, J. Kiolbassa-2<sup>nd</sup>.</p> <p>Case expired on July 31, 2016 in accordance with LDC Section 25-2-246(A)(2).</p>	<p>12/10/15: Postponed to February 11, 2016 at the staff's request (10-0, S. Adler-absent)</p> <p>02/11/16: Postponed indefinitely at the request of the applicant (11-0); L. Pool-1<sup>st</sup>, D. Zimmerman-2<sup>nd</sup>.</p>
C14-2012-0099 (Myers Zoning Change: 6810 McNeil Drive)	I-SF-2 to €S GR	<p>11/06/12: Approved GR-CO zoning (6-0, G. Rojas-absent); P. Seeger-1<sup>st</sup>, J. Meeker-2<sup>nd</sup>, with the following conditions 1) Limit the development intensity for the site to less than 2,000 vehicle trips per day, 2) Prohibit the following uses as offered by the applicant: Automotive Repair Services, Automotive Washing (of any kind), Bail Bond Services, Commercial Off-Street Parking, Drop-Off Recycling Collection Facility, Exterminating Services, Food Sales, Funeral Services, Hotel/Motel, Indoor Entertainment, Indoor Sports and Recreation, Off-Site Accessory Parking, Outdoor Entertainment,</p>	<p>11/08/12: Approved GR-CO zoning on consent on 1<sup>st</sup> reading (6-0, S. Cole-off dais); L. Morrison-1<sup>st</sup>, M. Martinez-2<sup>nd</sup>.</p> <p>12/13/12: Approved GR-CO zoning on consent on 2<sup>nd</sup>/3<sup>rd</sup> readings (7-0), L. Morrison-1<sup>st</sup>, B. Spelman-2<sup>nd</sup>.</p>

		Outdoor Sports and Recreation, Plant Nursery, Theater, Custom Manufacturing, College and University Facilities, Communication Service Facilities, Community Recreation (Private & Public), Counseling Services, Guidance Services, Hospital Services (General), Hospital Services (Limited), Local Utility Services, Private Primary Educational Facilities, Private Secondary Educational Facilities, Public Primary Educational Facilities, Residential Treatment, Safety Services; 3)Add Automotive Sales and Service Station as prohibited uses. 4) Prohibit/restrict hours of operation between 12:00 a.m. and 6:00 a.m.	
C14-2008-0098 (12205 Pecan Street)	SF-3 to LI	7/01/08: Approved staff's rec. of LI-CO zoning, with added condition to prohibit Adult Oriented Businesses, by consent (6-0, J. Martinez, K. Jackson-absent) T. Rabago-1 <sup>st</sup> , J. Shieh-2 <sup>nd</sup> .	8/07/08: Approved LI-CO district zoning, with the following conditions: 2,000 vtpdl, prohibit Adult Oriented Businesses and 35-feet of right-of-way should be dedicated from the centerline of Pecan Street through a street deed, by consent (7-0); B. McCracken-1 <sup>st</sup> , S. Cole-2 <sup>nd</sup> .
C14-2008-0095 (Jekel Rezoning: 12214 Jekel Circle)	SF-3 to LI	7/01/08: Approved staff's recommendation of LI-CO zoning, with added condition to prohibit Adult Oriented Businesses, by consent (6-0, J. Martinez, K. Jackson-absent) T. Rabago-1 <sup>st</sup> , J. Shieh-2 <sup>nd</sup> .	8/07/08: Approved LI-CO district zoning, with the following conditions: 2,000 vtpdl, prohibit Adult Oriented Businesses and 35-feet of right-of-way should be dedicated from the centerline of Jekel Circle through a street deed, by consent (7-0); B. McCracken-1 <sup>st</sup> , S. Cole-2 <sup>nd</sup> .
C14-2008-0069 (IABA Phase-1: 12460 Los Indios Trail)	I-RR to MF-3	6/17/08: Approved SF-6-CO district zoning with conditions of: Restricting to no duplexes, multi-family, town homes or condominiums; Maximum of 30 units; 25' undisturbed vegetative setback and a 50' building setback from the northern property line; 300 vehicle trips per day; Commissioner Keith	7/24/08: Approved the ZAP Commission's rec. of SF-6-CO zoning, with restrictions as follows: no attached single family dwellings and 35' height limitation with exceptions allowed under the Code up to 40'. The parking will be agreed upon by involved parties.

		Jackson's motion, Commissioner Joseph Martinez second the motion on a vote of 8-0; with 1 vacancy on this commission.	(7-0); Council Member Cole-1 <sup>st</sup> , Council Member Martinez-2 <sup>nd</sup> ; 1 <sup>st</sup> reading  7/23/09: Approved SF-6-CO zoning on consent on 2 <sup>nd</sup> /3 <sup>rd</sup> readings (7-0); Morrison-1 <sup>st</sup> , Martinez-2 <sup>nd</sup> .
C14-03-0107 (Los Indios Lift Station: 12507 Oro Valley Trail)	SF-4A to P	8/26/03: Approved staff's recommendation of 'P' zoning by consent (8-0, K. Jackson-absent); J. Martinez-1 <sup>st</sup> , J. Gohil-2 <sup>nd</sup> .	9/25/03: Granted 'P' (7-0); all 3 readings
C14-03-0074 (Gateway Community Church: 7014 McNeil Drive)	SF-6-CO to GO	6/3/03: Approved GO-CO zoning, with the following conditions: 1) Limit the development intensity on the site to less than 2,000 vehicle trips per day. 2) Allow GO, General Office district, zoning height (60 feet) and impervious cover (80%) standards. Limit all other site development regulations to LO, Limited Office district, zoning standards. 3) Permit LO district uses (prohibit the following GO district uses): Business or Trade School, Business Support Services, College and University Facilities, Congregate Living, Hospital Services (General), Hospital Services (Limited), Private Secondary Education Facilities, Off-Site Accessory Parking, Personal Services, Restaurant (Limited); 4) Provide a 25-foot setback (buffer zone) from the North property line for the area that is zoned SF-1. 5) Provide a 25-foot setback from the East property line for the area that is zoned SF-1 and the lot zoned SF-2.	7/17/03: Granted GO-CO; prohibiting vehicle access to Lobelia Dr. (7-0); all 3 readings
C14-03-0059 (McNeil Deal: 6917 McNeil Drive)	SF-3 to CS	5/6/03: Approved staff's rec. of CS-CO zoning with condition to prohibit the following uses: <ul style="list-style-type: none"> <li>Drop-off Recycling Collection Facility</li> </ul>	6/5/03: Approved CS-CO (7-0); all 3 readings



		<ul style="list-style-type: none"> <li>Scrap and Salvage</li> <li>Convenience Storage</li> <li>Pawnshop Services</li> </ul> (8-0, K. Jackson-absent)	
C14-00-2218 (6514 McNeil Drive)	I-RR to GO	2/13/01: Approved staff rec. of GO-CO by consent (9-0)	3/22/01: Approved GO-CO zoning, with the following conditions: 660 vehicle trip limit and 40 foot height limit (7-0); all 3 readings
C14-99-0095	SF-3 to CS	6/29/99: Approved staff's alternate rec. of CS-CO (8-0)	7/29/99: Approved PC rec. of CS-CO (6-0); all 3 readings

RELATED CASES:

C14-98-0146, C14-2017-0042 (Previous Zoning Cases)

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Cap Metro (within ¼ mile)
Blackfoot Trail	Level 1 / Neighborhood Collector	58 feet	60 feet	40 feet	None	None	No

OTHER STAFF COMMENTS:Comprehensive Planning

**Project Name and Proposed Use:** 12604 BLACKFOOT TRAIL. C14-2022-0142. Project: Birgani's Property. 0.34 acres from SF-1 to GR-MU. House to unidentified/unspecified mixed-use project. Oct 10, 2022

Yes	Imagine Austin Decision Guidelines
	Complete Community Measures
Y	<b>Imagine Austin Growth Concept Map:</b> Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. <b>Name(s) of Activity Center/Activity Corridor/Job Center: located 0.50 miles from the 183 and McNeil Neighborhood Center</b>
	<b>Mobility and Public Transit:</b> Located within 0.25 miles of public transit stop and/or light rail station.
Y	<b>Mobility and Bike/Ped Access:</b> Adjoins a public sidewalk, shared path, and/or bike lane. <b>(Only one bike lane along McNeil Drive but no public sidewalks)</b>
Y	<b>Connectivity, Good and Services, Employment:</b> Provides or is located within 0.50 miles to goods and services, and/or employment center.
	<b>Connectivity and Food Access:</b> Provides or is located within 0.50 miles of a grocery store/farmers market.
	<b>Connectivity and Education:</b> Located within 0.50 miles from a public school or university.
	<b>Connectivity and Healthy Living:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail.
	<b>Connectivity and Health:</b> Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)
	<b>Housing Affordability:</b> Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
	<b>Housing Choice:</b> Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
	<b>Mixed use:</b> Provides a mix of residential and non-industrial uses.
	<b>Culture and Creative Economy:</b> Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	<b>Culture and Historic Preservation:</b> Preserves or enhances a historically and/or culturally significant site.
	<b>Creative Economy:</b> Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	<b>Workforce Development, the Economy and Education:</b> Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	<b>Industrial Land:</b> Preserves or enhances industrial land.
3	<b>Total Number of "Yes's"</b>

### Environmental

The site is located over the North Edwards Aquifer Recharge Zone. The site is in the Rattan Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

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 Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

According to floodplain maps there is no floodplain within or adjacent to the project location.

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 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 requires water quality control with increased capture volume and control of the 2-year storm on site.

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

### Fire

No comments.

### Parks and Recreation

Parkland dedication will be required for the new applicable uses proposed by this development, mixed-use with GR-MU 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. Should fees in-lieu be required, 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](mailto:thomas.rowlinson@austintexas.gov).

At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

### Site Plan

#### **General**

A site plan will be required for any new development other than single-family, two-family or duplex residential.

Any new development is subject to the design standards and multifamily density provisions in Subchapter E of the Land Development Code. Additional comments will be made when the site plan is submitted.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

#### **Compatibility Standards**

The site is subject to compatibility standards, due to adjacent RR and SF-1 zoning. The following standards apply:

- No structure may be built within 25 feet of the property line of any adjacent compatibility-triggering property.
- No parking or driveways are allowed within 25 feet of the property line of any adjacent compatibility-triggering property.
- No structure in excess of two stories and 30 feet in height may be constructed within 50 feet of the property line of the compatibility-triggering property.
- No structure in excess of three stories and 40 feet in height may be constructed within 100 feet of the property line of the compatibility-triggering property.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, the height is limited to 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- For a structure more than 300 feet but not more than 540 feet from property zoned SF-5 or more restrictive, the height is limited to 60 feet plus one foot for each four feet of distance in excess of 300 feet from the property zoned SF-5 or more restrictive.
- A fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining compatibility-triggering property.
- Additional design regulations will be enforced at the time a site plan is submitted.

### Transportation

The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for Blackfoot Trail. It is recommended that 29 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

Zoning transportation analysis shall be performed at zoning where anticipated trips are anticipated to exceed 2,000 unadjusted trips to satisfy the LDC requirement for a TIA but does not diminish the authority to require a traffic impact analysis at site plan. LDC 25-6, TCM 10.5.0

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan application. Transportation assessment/traffic impact analysis and transportation demand management plan shall be required at the time of site plan if triggered per LDC 25-6 and TCM 10.2.1.

A transportation assessment/traffic impact analysis shall be required at the time of site plan if triggered, when land uses and intensities will be known per LDC 25-6-113 and TCM 10.2.1.

A Neighborhood Traffic Analysis shall be required at the time of site plan, if triggered, when land uses and intensities will be known. if triggered per LDC 25-6-114.

### Water Utility

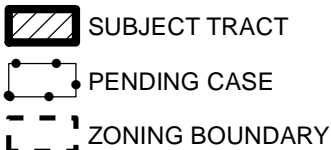
The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin.

The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

### INDEX OF EXHIBITS TO FOLLOW

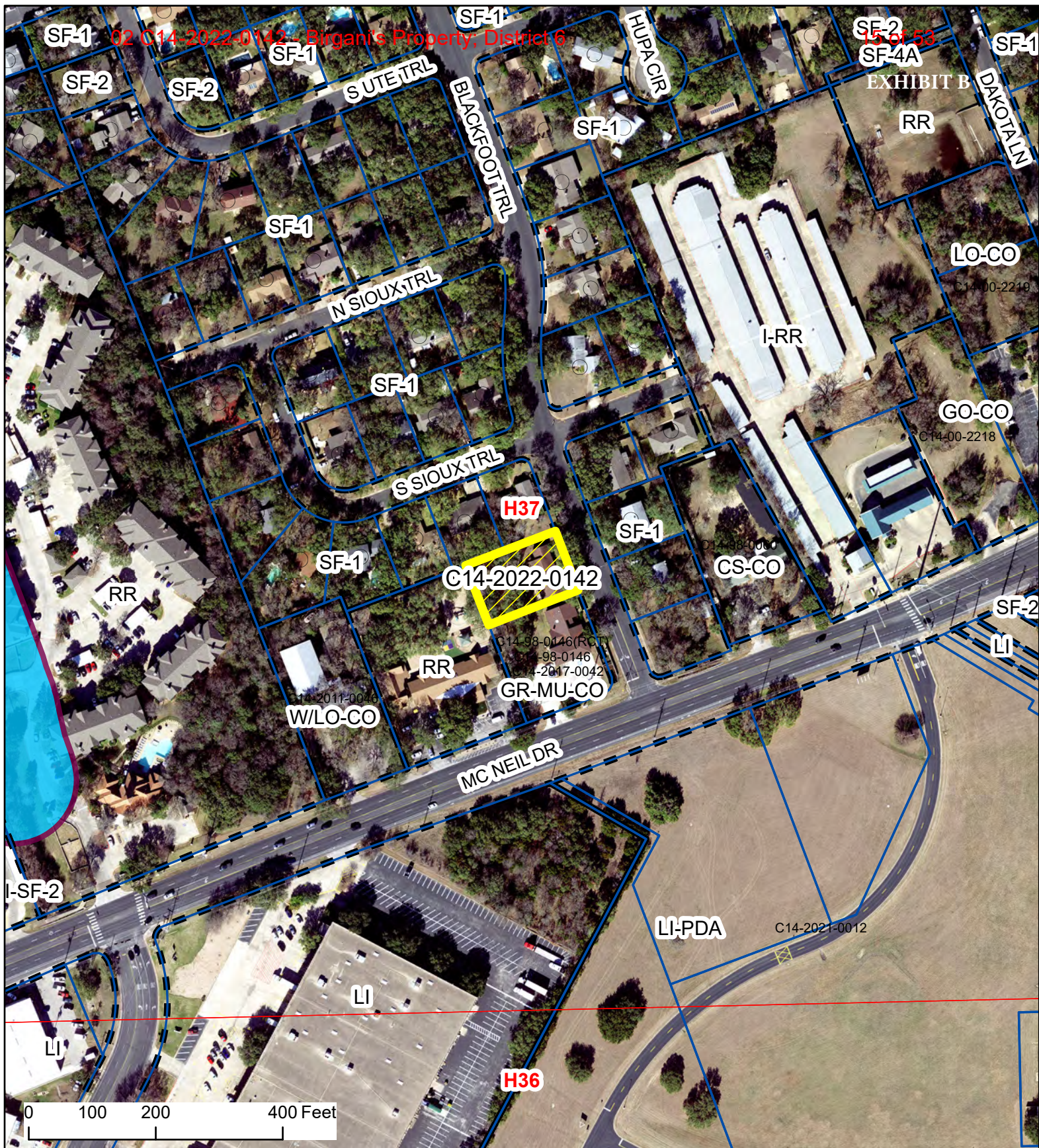
- A: Zoning Map
- B. Aerial Map
- C. Information Provided by the Applicant
- D. Ordinance No. 20171214-102 and Public Restrictive Covenant for 12602 Blackfoot Trail
- E. Correspondence from Interested Parties

The logo of the City of Austin, featuring a circular seal with the text "CITY OF AUSTIN" at the top and "FOUNDED 1839" at the bottom. The center of the seal depicts a shield with a red and white design, topped by a blue and white emblem.

**Created: 10/10/2022**





$$1'' = 400'$$





## Birgani's Property



-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

ZONING CASE#: C14-2022-0142  
 LOCATION: 12604 Blackfoot Trail  
 SUBJECT AREA: 0.34 Acres  
 GRID: H37  
 MANAGER: Sherri Sirwaitis



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

Created: 10/26/2022



# Rezoning Application of Birgani's Property

**Case No.: C14-2022-0142**  
**12604 Blackfoot Trail**

**LEGAL DESCRIPTION:**  
**LOT 1 OF INDIAN OAKS 2 SUBDIVISION**

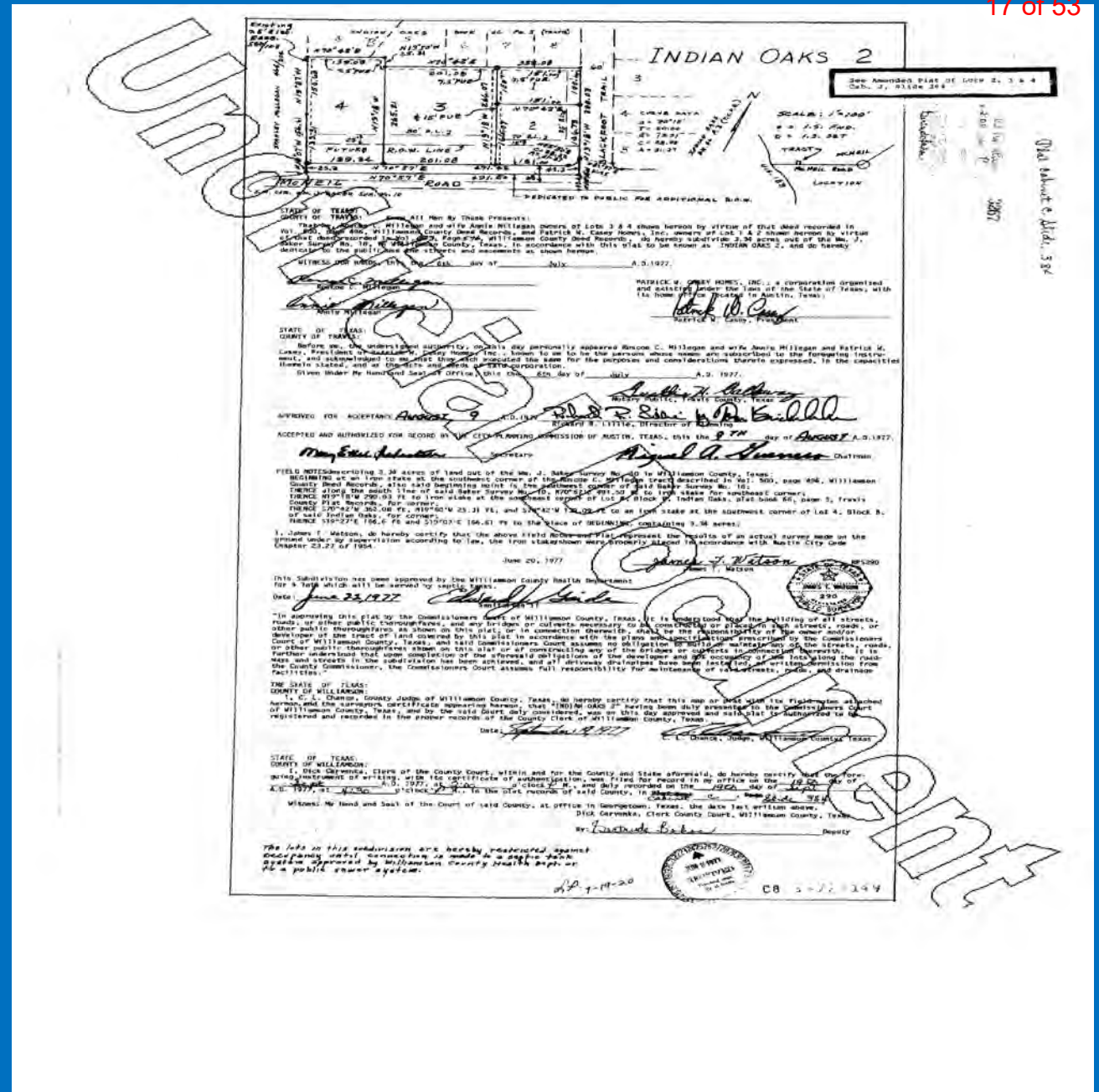


# ➤ 02 C14-2022-0142 - Birgan's Property, District 6

## INDIAN OAKS 2 SUBDIVISION CREATED IN 1977.

## ➤ IT HAS ONLY 4 LOTS (LOT1, LOT2, LOT3 & LOT4)

17 of 53



- On April 21<sup>st</sup>, 1985, an Amendment on Restrictions on all Indian Oaks 2 Subdivision abrogated all prior deed restrictions limiting the property use to residential purposes and **allowed the properties within Indian Oaks 2 subdivision to “be used for any lawful purpose.**

# AMENDMENT OF RETRICTION

ON April 21ST, 1985, the undersigned agree that the restrictions imposed upon the properties in the Indian Oaks 2 Subdivision were hereby amended and modified to provide that **the properties** were no longer restricted to use for residential purpose only and **MAY BE USED FOR ANY LAWFUL PURPOSE.**

STATE OF TEXAS

§

18833

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WILLIAMSON

§

WHEREAS, by Deed recorded in Volume 500, Page 496, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", RAYMOND FLOYD DAVIS and wife, ALINE DAVIS, and BEULAH DAVIS, as Grantors, did convey to ROSCOE E. MILLEGAN and wife, ANNIE MILLEGAN, as Grantees, those six (6) tracts of land situated in Williamson County, Texas, as are more fully described on Exhibit "A"; and

WHEREAS, BEULAH DAVIS is now deceased and DIANA EICHSTATDT, joined herein by her husband, DONALD L. EICHSTATDT, is her only heir; and

WHEREAS, ELAINE BARNES, wife of DALE BARNES, is now deceased; and

WHEREAS, RICHARD BOUTON and wife, DIANE BOUTON, CRAIG H. SHERPERT and wife, BARBARA SHERPERT, DALE BARNES and FRANK C. WOLCHICK, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named MILLEGANS, BOUTONS, BARNES, SHERPERTS and WOLCHICK constitute all of the parties with any interest in and to the property described on Exhibit "A"; and

WHEREAS, the Deed attached as Exhibit "A" contains certain restrictions restricting the use of the property for residential purposes only, and the parties hereto now desire to amend said restrictions to permit any lawful use;

NOW THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree that the restrictions imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purposes only and may be used for any lawful purpose.

EXECUTED this 21<sup>st</sup> day of April, 1985.

ROSCOE E. MILLEGAN  
ROSCOE E. MILLEGAN

ANNIE MILLEGAN  
ANNIE MILLEGAN

DIANA EICHSTATDT  
DIANA EICHSTATDT

DONALD L. EICHSTATDT  
DONALD L. EICHSTATDT

RICHARD BOUTON  
RICHARD BOUTON

DIANE BOUTON  
DIANE BOUTON

CRAIG H. SHERPERT  
CRAIG H. SHERPERT

BARBARA J. SHERPERT  
BARBARA J. SHERPERT

FRANK C. WOLCHICK, JR.  
FRANK C. WOLCHICK, JR.

DALE BARNES  
DALE BARNES

STATE OF TEXAS

§

COUNTY OF TEXAS

§

This instrument was acknowledged before me on APRIL 21, 1985, by

- ❖ The property for rezoning is LOT 1 of Indian Oaks 2 Subdivision, it is on Blackfoot Trail street and less than 167 feet away from McNeil Drive.
- ❖ Please notice in the following slides not only are all the other lots of Indian Oaks 2 Subdivision commercial, furthermore within one mile from the property, there are also six streets on the west side of McNeil drive including:
  1. San Felipe Blvd,
  2. Los Indios Trail,
  3. Blackfoot Trail,
  4. Dakota Ln,
  5. Corpus Christi Drive &
  6. Parmer Ln.
- ❖ In each of the above streets and along McNeil Drive, there are many different types of community's commercial districts such as CS, CS-CO, GR, GR-CO, GR-MU-CO, LI, ME, and other types of commercial districts.



W/L-CO  
LOT 4

LOT 3

LOT 2  
GR-MU

LOT 1 THE  
PROPERTY FOR  
REZONING

INDIAN OAKS-2-  
SUBDIVISION

McNeil Dr

BLACKFOOT TRAIL

© 2017 Google

Google Earth



McNeil Drive

CS-CO & GR-CO

MEDICAL  
OFFICES

SAN FELIPE BLVED

GR-CO

7308 McNeil Dr.

MF MF



Along McNeil Drive

COMMERCIAL  
PROPERTIES

MF MF MF  
MF  
MF

CS-CO

MF MF

7200 McNeil Dr

COMMERCIAL PROPERTIES



McNeil Drive

GR-CO

6914

McNeil Dr

CONSTRUCTION In  
progress

MF

MF

MF

LOS INDIOS TRAIL

MF

MF

MF

Google Earth



Along McNeil Drive

MF

MF

MF

MF

MF

GR-CO

RESTAURAN

(GR)

MF

MF



MF  
MF

02 C14-2022-0142 - Birgani's Property; District 6

28 of 53

LOT4  
W/L-CO

LOT3

THE  
PROPERTY  
LOT 2  
GR-MU

BLACKFOOT TRAIL

GATE

STORAGE

CS-CO

CAR  
WASH

MEDICAL  
OFFICE

DAKOTA LN

GR-CO

McNeil Drive

Mcneil drive

GR  
LI  
MF

GR  
RECENTLY, OVER 100  
ACERS HAVE BEEN  
REZONED GR & MF.

GR  
LI  
MF

RESIDENTIAL

© 2017 Google

Google Earth



# BLACKFOOT TRAIL

## GATE

### CS-CO

### 6514 McNeil DR

## STORAGE

## CAR WASH



McNeil Drive

MEDICAL OFFICES

DAKOTA LN

GR-CO



MAJOR 4 STORIES COMMERCIAL  
BUILDING. CURRENTLY  
CONSTRUCTION IS IN PROGRESS

GAS  
STATION  
(GR)

6750

GR-CO

CORPUS CHRISTI Dr

McNeil Drive

MF

MF

MF

MF





Saam Thai  
Thai • \$\$

Whataburger

02-014-2022-0142 - Birgani's Property; District 6

Starbucks

Green Herbal Care  
CBD & Delta-8 THC

Schlotsky's  
Sandwich • \$

Wells Fargo Bank

Shell

W Parmer Ln & McNeil Dr, Austin, TX 787  
3 min drive - home

Marble Falls Cove

McNeil Dr

Google

➤ PLEASE NOTE, MY APPLICATION FOR REZONING GR-MU IS CONSISTENT & COMPATIBLE WITH OTHER PROPERTIES WITHIN A MILE ALONG OF McNeil DRIVE & THOSE STREETS.

➤ THANK YOU FOR THE OPPORTUNITY



MF GR LI

INDIAN OAKS-2-  
SUBDIVISION

McNeil Dr

MF GR LI

W/L-CO  
LOT 4 CO

LOT 3

EASEMENT TRACT

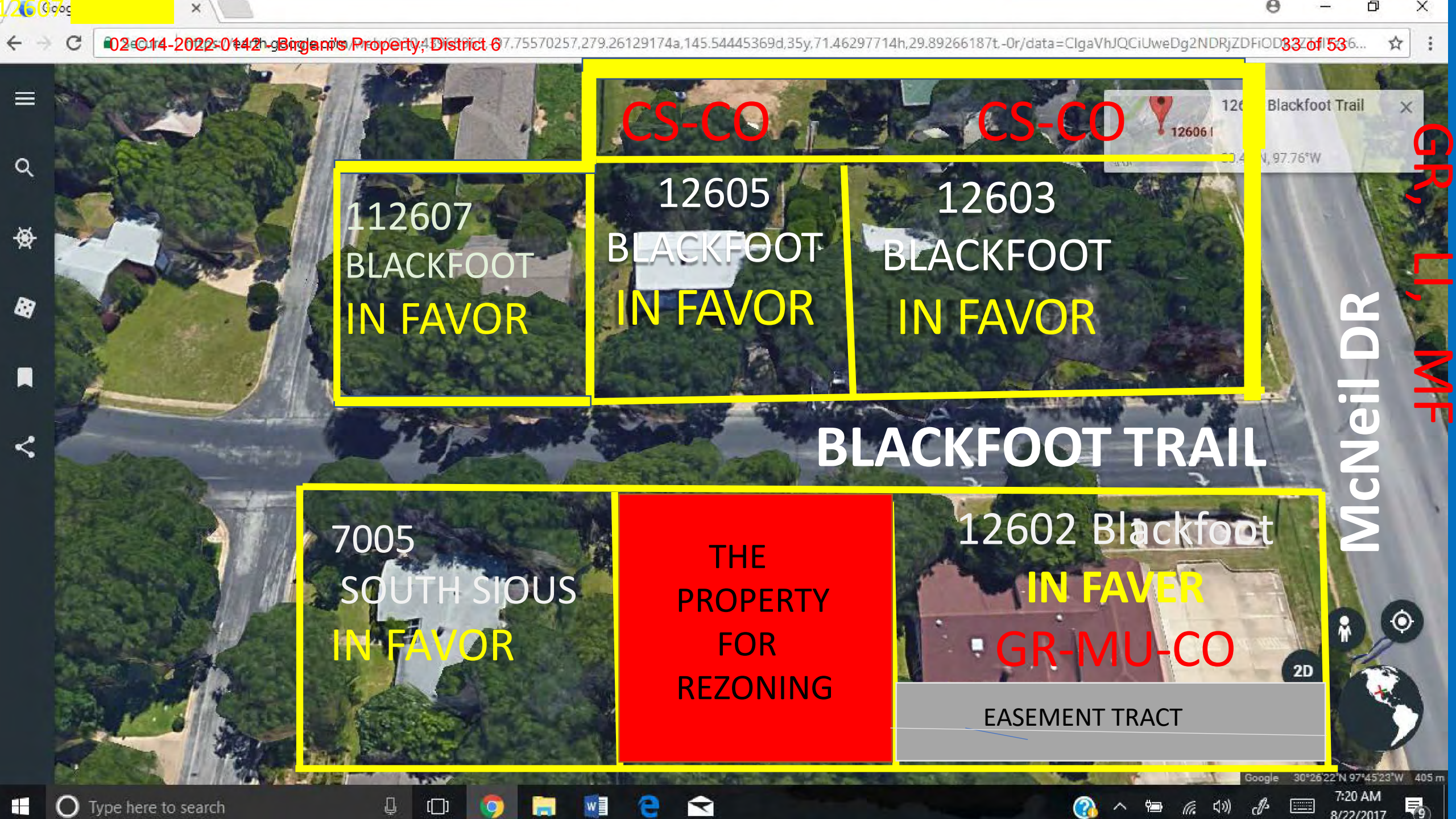
LOT 2 12602  
GR-MU

PROPERTY  
FOR  
REZONING

BLACKFOOT TRAIL

Google Earth





CS-CO

CS-CO

112607  
BLACKFOOT  
IN FAVOR

12605  
BLACKFOOT  
IN FAVOR

12603  
BLACKFOOT  
IN FAVOR

BLACKFOOT TRAIL

7005  
SOUTH SIOUS  
IN FAVOR

THE  
PROPERTY  
FOR  
REZONING

12602 Blackfoot  
IN FAVOR  
GR-MU-CO

EASEMENT TRACT

McNeil DR

GR, LI, MF



02 C14-2022-0142 - Birgani's Property; District 6

EASEMENT TRACT

THE  
PROPERTY  
FOR  
REZONING

MCNEIL DRIVE

LOT 2  
GR-MU-CO

12602 Blackfoot Trail  
12602 Blackfoot Trail

166 FEET

BLACKFOOT TRAIL

© 2017 Google

Google Earth

**ORDINANCE NO. 20171214-102**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 6610 MCNEIL DRIVE AND 12602 BLACKFOOT TRAIL FROM SINGLE-FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT AND NEIGHBORHOOD COMMERCIAL-CONDITIONAL OVERLAY (LR-CO) COMBINING DISTRICT TO COMMUNITY COMMERCIAL-MIXED USE-CONDITIONAL OVERLAY (GR-MU-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 single-family residence standard lot (SF-2) district and neighborhood commercial-conditional overlay (LR-CO) combining district to community commercial-mixed use-conditional overlay (GR-MU-CO) combining district on the property described in Zoning Case No. C14-2017-0042, on file at the Planning and Zoning Department, as follows:

Lot 2, Indian Oaks 2 Subdivision, a subdivision in the City of Austin, Williamson County, Texas, according to the map or plat of record in Cabinet J, Slide 264, of the Official Records of Williamson County, Texas (the "Property"),

locally known as 6610 McNeil Drive and 12602 Blackfoot Trail in the City of Austin, Williamson County, Texas, generally identified in the map attached as **Exhibit "A"**.

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

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

Restaurant (general)

B. Liquor sales as an accessory use to commercial uses is prohibited.

**PART 3.** 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) district and other applicable requirements of the City Code.

**PART 4.** This ordinance takes effect on December 25, 2017.


**PASSED AND APPROVED**

\_\_\_\_\_, December 14, 2017

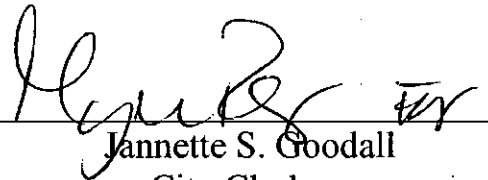
§  
§  
§

  
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Jannette S. Goodall  
City Clerk





DEC 12 2017

Zoning Case No. C14-2017-0042

Planning & Zoning Department

**RESTRICTIVE COVENANT**

OWNER: Abraham Birgani

OWNER ADDRESS: 12604 Blackfoot Trail, Austin, Texas 78729

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 2, Indian Oaks 2 Subdivision, a subdivision in the City of Austin, Williamson County, Texas, according to the map or plat of record in Cabinet J, Slide 264, of the Official Records of Williamson County, Texas (the "Property"),

WHEREAS, the Owner (the "Owner", whether one or more) of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

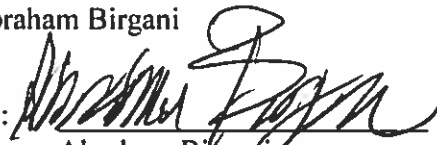
1. Vehicular traffic associated with non-residential use of the Property to or from Blackfoot Trail is prohibited except for pedestrian, bicycle, and emergency ingress and egress. Access to the Property for all vehicular traffic associated with a non-residential use shall be from other adjacent public streets or through other adjacent property.
2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the Owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 12<sup>th</sup> day of December, 2017.

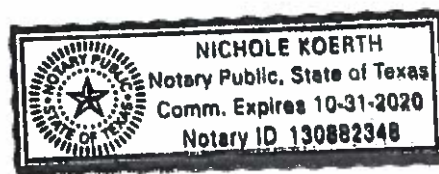
OWNER:

Abraham Birgani

By:   
Abraham Birgani

THE STATE OF TEXAS §

COUNTY OF Travis §



This instrument was acknowledged before me on this the 12<sup>th</sup> day of December, 2017, by Abraham Birgani.

Nichole Koerth  
Notary Public, State of Texas

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:  
<https://bit.ly/ATXZoningComment>



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](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

**Case Number: C14-2022-0142**

**Contact: Sherri Sirwaitis, 512-974-3057**

**Public Hearing: January 17, 2023, Zoning and Platting Commission**

Glen McGuire

Your Name (please print)

☐ I am in favor  
☒ I object

12609 Blackfoot Tr-1, Austin, TX 78721

Your address(es) affected by this application (optional)

[Signature]

Signature

12-28-22

Date

Daytime Telephone (Optional): 512 750 5046

Comments: I object to changing a single residential lot in the middle of a neighborhood to a commercial business. Access to commercial businesses in our neighborhood has always (and should remain) limited to McNeil road, not Blackfoot Trail. This would set a terrible precedent that any single residential lot could be ~~converted~~ converted to a pawn shop or vape shop or payday lender in the middle of a family neighborhood. I have also attached my previously emailed  
Comments.

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

City of Austin, Housing & Planning Department

**Sherri Sirwaitis**

P. O. Box 1088, Austin, TX 78767

Or email to:

[sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov)



**From:** glen.e.mcguire  
**Sent:** Wednesday, October 26, 2022 7:21 AM  
**To:** Sherri.Sirwaitis@austintexas.gov  
**Cc:** 'F Vandygriff' <fvandygriff@hotmail.com>  
**Subject:** RE: ITIO: Case Number C14-2022-0142 - Birgani Notice of Application for Rezoning

Good morning Ms. Sirwaitis,

Thank you for allowing us to submit comments regarding Mr. Birgani's request for rezoning. I live about 150' from Mr. Birgani's property so I have a significant interest in his desire to change the zoning for his property from single family residential to the GR-MU commercial designation. My immediate concern is that Mr. Birgani has made no effort to reach out to his neighbors and give us any idea of the type of commercial business he would like to convert his residential property into. Based on the GR-MU designation, he could open a pawn, shop, an auto repair facility, a convenience store, or another type of business that does not belong between houses in a neighborhood and would cause a significant increase in traffic on a residential street.

Regardless of the type of commercial business Mr. Birgani has in mind, here are my specific concerns should his request be approved:

1. Increase in traffic on Blackfoot Trail which is a residential street with many kids.
2. Increase in traffic at the intersection of Blackfoot Trl and McNeil Road which is already a dangerous intersection with frequent collisions.
3. Potential for the establishment of a business that is not neighborhood friendly in the middle of a neighborhood - much like the vape shop Mr. Birgani operates on McNeil and Blackfoot at the entrance to our neighborhood.
4. Negative impact on our neighborhood property values due to increased traffic.
5. Negative impact on our neighborhood property values due to the type of business established.
6. Negative impact on our neighborhood property values because a commercial business does not belong in the middle of a residential neighborhood - uniform look/characteristics of properties maximizes surrounding property values where unusual properties reduce the value of surrounding properties.

Perhaps my most significant concern is the negative impact on the quality of life in our neighborhood. This is a family neighborhood with lots of kids of all ages. It's bad enough that Mr. Birgani has brought a vape shop to the cusp of our neighborhood, literally within walking distance of many teens. If he is able to change the zoning for his own residence to a commercial designation with few restrictions, I fear for what our neighborhood will become. I fear the precedent it will set for the rest of the neighborhood. If his request is approved, how many more homes around us will be allowed to be converted into vape shops or pawn shops?

Thank you again for the opportunity to submit these comments. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Glen McGuire

**From:** [Cynthia Wright](#)  
**To:** [Sirwaitis, Sherri](#)  
**Subject:** Case #: C14-2022-0142 public hearing 01/17/2023 , Zoning and Platting Commission  
**Date:** Sunday, January 8, 2023 6:54:36 PM

---

You don't often get email from cynthiaw0101@yahoo.com. [Learn why this is important](#)

\*\*\* External Email - Exercise Caution \*\*\*

I Cynthia Wright owner of my home withing 500ft of preposed rezoning Case # C14-2022-0142  
I object to this rezoning. The rezone will change the character of Indian Oaks neighborhood.  
It will lead to more traffic at the main entrance to Indian Oaks neighborhood at Blackfoot and McNeil.  
Traffic is often backed up trying to get on McNeil from Blackfoot. This will cause safety issues to all  
residence who use this entrance into Indian Oaks neighborhood. It will likely cause reduction in property  
value. I believe there is an Aquifer below this land area. Thank you for your concern on this issue.

Cynthia Wright  
512-680-9928  
7106 N. Sioux Trl., Austin, Tx 78729

**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](mailto:cybersecurity@austintexas.gov).

**From:** [scottfehr](#)  
**To:** [Sirwaitis, Sherri](#)  
**Cc:** [fvandygriff](#) [Bob King](#); [glen.e.mcquire](#); ["Jay Clendenin"](#); [trenholm](#)  
**Subject:** ITIO: Case Number C14-2022-0142 - Notice of Application for Rezoning  
**Date:** Tuesday, November 22, 2022 8:27:16 AM

You don't often get email from [scottfehr@austin.rr.com](mailto:scottfehr@austin.rr.com). [Learn why this is important](#)

\*\*\* External Email - Exercise Caution \*\*\*

Hello Ms. Sirwaitis,

Thank you for the opportunity to submit comments regarding property owner's request for rezoning.

**I have lived at 7005 S Sioux Trl for 29.5 years and share a 91 ft property boundary with 12604 Blackfoot Trl, such that the proposed zoning change from SF-1 residential to GR-MU commercial would negatively affect my quality of life and property value.**

These are some of my concerns, which are generally shared with my immediate neighbors:

1. **GR-MU** is not compatible/non-conforming and inconsistent with the current **SF-1** zoning in the surrounding area
2. **GR-MU** zoning allows inappropriate, far less restrictive, site development standards than the current **SF-1** zoning, ***“permitting any combination of office, retail, commercial, and residential uses within a single development.”*** This would also allow **60 ft** max height.
3. Proposed **GR-MU** zoning would significantly increase traffic on Blackfoot Trail – a busy residential street in close proximity to an already dangerous intersection at McNeil Rd
4. A rezoning of this nature will alter the essential character of our SF-1 neighborhood, which is all long-established single-family residential
5. Rezoning would have a negative impact on property values – GR’s broad allowance of uses includes alternative financial services such as pawn shops and payday lenders. Research shows a clear association between the presence of payday lenders and neighborhood crime. Additionally, this rezoning allows businesses such as automotive repair and bail bond shops – this would be directly located next to single family homes.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Scott Fehr  
7005 S Sioux Trl

Austin TX 787529  
512.413.4024

**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](mailto: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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

**Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:**  
<https://bit.ly/ATXZoningComment>



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](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

**Case Number: C14-2022-0142**

**Contact: Sherri Sirwaitis, 512-974-3057**

**Public Hearing: January 17, 2023, Zoning and Platting Commission**

Deborah Wheeler

Your Name (please print)

☐ I am in favor  
☒ I object

7104 N. Sioux Trail, Austin 78729

Your address(es) affected by this application (optional)

Deborah L. Wheeler

Signature

1-16-23

Date

Daytime Telephone (Optional): \_\_\_\_\_

Comments: My plan is to attend hearing and  
learn more of what Mr. Birgani wants  
to do. In the past, some of his rezoning  
attempts have not been in the best interest  
of the neighborhood and property values.  
There is also a sink hole across street  
that is connected with Edwards Aquifer that  
needs to be taken into consideration when  
rezoning.

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

City of Austin, Housing & Planning Department

**Sherri Sirwaitis**

P. O. Box 1088, Austin, TX 78767

Or email to:

**[sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:  
<https://bit.ly/ATXZoningComment>



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](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

Case Number: C14-2022-0142

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: January 17, 2023, Zoning and Platting Commission

STEVEN B. DUBLIN

Your Name (please print)

☐ I am in favor  
☒ I object

7000 S SHUTTLWORTH AUSTIN, TX 78729

Your address(es) affected by this application (optional)

S.B. DUBLIN

1-10-23

Signature

Date

Daytime Telephone (Optional):

Comments: THIS PROPOSED CHANGE TO COMMERCIAL ZONING IN THIS RESIDENTIAL NEIGHBORHOOD IS UNACCEPTABLE. THIS TYPE OF COMMERCIAL CREEP ID TO RESIDENTIAL USES IS DETRIMENTAL TO THE NEIGHBORHOOD. THIS SHOULD NOT BE ALLOWED. THE COMMERCIAL STORAGE FACILITY ADJACENT TO SIOUT IS ALREADY A NEGATIVE FACTOR.

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

City of Austin, Housing & Planning Department

Sherri Sirwaitis

P. O. Box 1088, Austin, TX 78767

Or email to:

[sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:  
<https://bit.ly/ATXZoningComment>.



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](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

**Case Number: C14-2022-0142**

**Contact: Sherri Sirwaitis, 512-974-3057**

**Public Hearing: February 7, 2023, Zoning and Platting Commission**

Alton Judy  
 Your Name (please print)

☐ I am in favor  
☒ I object

Your address(es) affected by this application (optional)

A.L. Judy  
 Signature

1/31/23  
 Date

Daytime Telephone (Optional): \_\_\_\_\_

Comments: \_\_\_\_\_

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

City of Austin, Housing & Planning Department

**Sherri Sirwaitis**

P. O. Box 1088, Austin, TX 78767

Or email to:

**sherri.sirwaitis@austintexas.gov**

**From: Mehdi Zarchi & Elham Tarkashvand**

**Date: January 31<sup>st</sup>, 2023**

**To: Sherri Sirwaitis**

**Subject: Case Number C14-2022-0142 – Birgani notice of application for rezoning**

**Hello Ms. Sirwaitis,**

**I am in support of Mr. Birgani for rezoning his property to GR-MU**

**I want to thank you for letting us to submit comments about Mr. Birgani property for rezoning (Case number C14-2022-0142)**

Mehdi Zarchi and my wife, Elham Tarkashvand are the owners of Lot4 and 5 of Indian Oaks subdivision which is locally known as 12601 Blackfoot Trail and 12603 Blackfoot Trail Austin Texas 78729 for more than 26 years. My properties are located about 60 to 70 feet away on the Eastside of Mr. Birgani's property for rezoning with Case #C14-2022-042.

**We appreciate for letting us to submit comments regarding Mr. Birgani's property for rezoning Case number C14-2022-0142**

**We** carefully reviewed your 58 pages report (The case manager's report) which called **ZONING CHANGE REVIEW SHEET**, for January 17<sup>th</sup>, 2023, the Zoning and Platting Commission public hearing and recommendation. We also met with Mr. Birgani several times. We made sure to make comments based on the facts and not to be biased. Please see our following comments.

- 1. Traffic impact on Blackfoot trail due to Mr. Birgani's GR-MU rezoning:** On the pages 45 and 47 of your report, according to City of Austin traffic impact analysis (TIA) done by Mr. Justin Good from Austin Transportation Department and Mr. Birgani propose



to use an easement through lot 2 of Indian Oaks 2 Subdivision. This eliminates traffic impact associated with nonresidential vehicles on the Blackfoot Trail (The neighborhood street). **We do not see any negative impact.**

**2. Building height and size of the proposed rezoning:** From pages 11 and 12 of your report, based on environmental and compatibility limitations on the small property for rezoning, the height can not be more than 30' to 40' feet height. On page 47 of your report, Mr. Birgani is proposing only two-story building (Commercial at ground level and residential on second level) which is compatible with many of neighbor's two storey' houses including mine at 12603 Blackfoot Trial with 35' feet height limit. **We do not see any negative impact.**

**3. Effect of Mr. Birgani's proposed building on characteristic of the Indian Oaks neighborhood:** from pages 14 and 15 of your report, On the Eastside of my properties, there are two large, developed properties, the property adjacent to our two properties which is zoned as CS-CO and Extra Space Storage. They are extended more than 800 feet in the Indian Oaks neighborhood, as a matter of fact **there is a gate from Extra Space Storage to South Sioux Trial in the middle of Indian Oaks neighborhood** and about 100 feet from **Mr. Glen McGuire's** property at 12609 Blackfoot trail Austin Texas 78729. It is fair to say that these properties and the gate may have some negative effect on characteristics of the Indian Oaks neighborhood. **By comparison, we do not see Mr. Birgani's small property for GR-MU rezoning could have a negative effect on the neighborhood's characteristics.**

**4. Effect of Mr. Birgani rezoning on value of the neighbors' properties:** During 1996, when we purchased our properties, we noticed Mr. Birgani's commercial building. We searched and found out that Mr. Birgani's properties are in the **Indian Oaks 2 Subdivision**. The subdivision with its 4 lots is not part of Indian Oaks subdivision. We understood that the Indian Oaks 2 Subdivision had been established since 1985, they can be used for non-residential (Commercial) purposes, too. We made the choice to purchase a house next to a commercial subdivision; **we understood that purchasing a home next to a commercial area does not give us any right to demand any restriction on the commercial area such as Indian Oaks 2 Subdivision.** From pages 14, 15 of your report, we have not seen any negative impact on value of our two properties due to these four commercial lots of **Indian Oaks 2 Subdivision** on Westside, CS-CO on the Eastside, the Research Park's recently rezoned with case # C14-2021-0012 on the Southside of our or Apple Factory within 2 miles of our properties. **As a matter of fact, these and other commercial developments have increased the value of our properties.**

**5.** From pages 14 and 15 of your report, the established retail business at 6610 McNeil Drive (lot 2 Indian Oaks 2 subdivision) on the Westside of our properties has no difference than the gas station/convenience store at the corner of McNeil Drive and Corpus Christi Drive. Not any teenager can purchase anything from this store. **As a matter fact, no one less than 21 years of age can purchase any product from this shop.**

**6. Compatibility and consistency of Mr. Birgani's rezoning with other streets on Northside of McNeil Drive:** From page 20 to 29 and page 47 to 53 of your report, From 183 to Parmer Ln on the Northside of McNeil Drive there are five main streets San Felipe Blvd, Los Indios Trail, Blackfoot Trail, Dakota Ln and corpus Christi

Drive. They are extending and have access to neighborhoods from McNeil Drive; all have commercial district of GR-CO. on them and with access to neighborhoods' streets but from page 47 to 53 Mr. Birgani propose doesn't have any access for vehicles associated with commercial use of the property to the Blackfoot trail (Neighborhood street). Please look at the intersection McNeil Drive and Corpus Christi, you will see Gas station/convenience store and next to it is GR-CO (Auto shop). The GR-CO is adjacent to SF1 and two neighborhood's streets. By comparison, Mr. Birgani rezoning request is very compatible and consistent with other commercial properties in each of these 5 neighborhoods.

Sincerely,

Mehdi Zarchi & Elham Tarkashvand



Allison Attal Penna  
7103 N Sioux Trl  
Austin, Texas 78729  
February 11, 2023

Zoning and Platting Commission  
c/o Sherri Sirwaitis  
P.O. Box 1088  
Austin, Texas 78767

RE: CASE NUMBER C14-2022-0142 PUBLIC HEARING FEBRUARY 21, 2023

To whom it may concern,

I am writing this letter in vehement objection of the application for re-zoning of the property at 12604 Blackfoot Trail. My concerns are twofold, which I will outline below. I respectfully implore you to consider these concerns as you make your decision.

Firstly, the entirety of Blackfoot Drive has become a thoroughfare for traffic, with uncontrolled speeding and near-constant running of the stop signs. I feel unsafe walking with my children along Blackfoot. The addition of a commercially zoned business would add to this traffic, compounding to this already gravely serious problem. I feel it would be irresponsible to add a commercially zoned property at the gateway of our community, especially when traffic is already an issue with no proposed resolution.

Secondly, Mr. Birgani has already rented his other commercially zoned property on Blackfoot to a smoke shop. The residents of this neighborhood have had extensive and repeated issues with crime, theft, and loitering. While I do not consider smoking or vaping a crime, nor do I judge those who use these substances, any commercial business at the entrance to our neighborhood will attract more people; with the increase of people the number of undesirable individuals in our neighborhood will also increase. Twinam (2017) details this effect in his expert opinion, stating that commercial uses of land and zoning leads to more street crime in the general vicinity of those businesses.

It is up to us and the commission to collaborate and work together to protect the integrity of our neighborhood as a residential safe-haven. Allowing this property to be re-zoned would have a detrimental impact on our neighborhood and its residents.

Thank you for your time and consideration. Please do not hesitate to contact me to discuss further.

Sincerely,  
Dr. Allison Penna, OTD  
512-547-9922

**References:**

Twinam, T. (2017). Danger zone: Land use and the geography of neighborhood crime. *Journal of Urban Economics*, 100, 104-119.

## 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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:  
<https://bit.ly/ATXZoningComment>



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](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

Case Number: C14-2022-0142

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: February 7, 2023, Zoning and Platting Commission

Robert R. Jackson

Your Name (please print)

☐ I am in favor  
☒ I object

7011 South Sioux Trail

Your address(es) affected by this application (optional)

Robert R. Jackson

2-7-23

Signature

Date

Daytime Telephone (Optional): (512) 751-6481

Comments:

Sherri  
 Mr. Birgani is manipulating the zoning commission into accepting his zoning change request with his only goal being to increase value and ease of sale of his property! He will be the one profiting while insulting a long sustained single family district. (check with Mayor Watson) (SF-1)

If you use this form to comment, it may be returned to:  
 City of Austin, Housing & Planning Department

Sherri Sirwaitis

P. O. Box 1088, Austin, TX 78767

Or email to:

sherri.sirwaitis@austintexas.gov

Respectfully,

Robert Jackson