City of Austin Development Services Department
6310 Wilhelmina Delco Drive / P.O. Box 1088 / Austin, Texas 78767-8835

SITE PLAN APPEAL

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Watershed Protection and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Land Use Commission (ZAP or PC), or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2000.

CASE NO. ____SP-2015-0543C(XT2)

PROJECT NAME Green Pastures_____

_____

PROJECT ADDRESS ____811 W Live Oak St

_____Austin, TX 78704

APPLICANT'S NAME ___AC 811 W Live Oak LLC

CITY CONTACT _____

DATE APPEAL FILED _____August 7 2023

YOUR NAME Milena Boytchef

SIGNATURE Milena Boytchef

YOUR ADDRESS 2304 S 3rd Street

_____

YOUR PHONE NO. (____) _____ **WORK**

([redacted]) __ [redacted] _ **HOME**

INTERESTED PARTY STATUS: Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ❑ I am the record property owner of the subject property
- ❑ I am the applicant or agent representing the applicant
- x❑ I communicated my interest by speaking at the Land Use Commission public hearing on (date) __08/25/2023.
- ❑ I communicated my interest in writing to the Director or Land Use Commission prior to the decision (attach copy of dated correspondence).

In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)

- ❑ I occupy as my primary residence a dwelling located within 500 feet of the subject site.
- X I am the record owner of property within 500 feet of the subject site.
- ❑ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

DECISION TO BE APPEALED*: (Check one)

- ❑ Administrative Disapproval/Interpretation of a Site Plan — Date of Decision: _____
- ❑ Replacement site plan — Date of Decision: _____
- X Land Use Commission Approval/Disapproval of a Site Plan — Date of Decision: _____8/25/23___
- ❑ Waiver or Extension — Date of Decision: _____
- ❑ Planned Unit Development (PUD) Revision — Date of Decision: _____
- ❑ Other: _____ — Date of Decision: _____

*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

STATEMENT: Please provide a statement specifying the reason(s) you believe the decision under appeal does

We are requesting Council to review the decision of the Planning Commission with respect to the application for the extension of the existing site permit for 811 West Live Oak Street (site permit 2015-0543C) Below are listed our concerns.

_____

Applicable Code Section: ____25-5-62 __

Argument 1:
The extension of a site plan is regulated by chapter §25-5-62 of the Land Development Code. According to this chapter, in order for a site plan to be extended, the developer must demonstrate compliance with at least one of the criteria outlined in §25-5-62 (C)(1) (a) to (d).

The applicant does not meet any of the criteria for extension per §25-5-62.

a) The proposed site plan does not comply with current Land Development Code as it does not comply with the Compatibility Code of City of Austin.
b) Good Faith was not demonstrated based commonly accepted criteria: the developer hasn't initiated any construction of a building or infrastructure, hasn't had funding at any given time since the original application was filed in April 2015. The applicant admits that it will take up to 2025 to "justify" a required loan expansion to execute the current site plan.
c) No structure or part of a structure has been constructed
d) No infrastructure has been built.

Argument 2:
The Planning Commission's decision-making process was tainted due to a misrepresentation of compliance with section §25-5-62 (c)(1)(d). To a cornerstone query by Commission "Has the applicant turned dirt", the Land Review Project Manager falsely claimed on behalf of Applicant that "Yes dirt has been turned on infrastructure", citing the construction of a significant portion of the infrastructure. The Manager later admitted by email to have mislead Commission.

Argument 3:
The proposed hotel design stands at over 38 feet and spans three stories, with only a 16-foot setback to numerous SF-3 residential properties. In contrast, even the most recent relaxed compatibility code update stipulates a minimum 50-foot setback from triggering houses for any buildings exceeding 30 feet or three stories. Developer and Planners are aware of this.

Argument 4:
The developer has repeatedly and intentionally misrepresented information about the progress towards completion of structures and infrastructure, compliance with the current land development code, and the availability of necessary funding. Evidence of this intentional misrepresentation includes:

1) the Engineering Letter from April 2023 (attached), which falsely attests the project as "Construction is imminent" but then states to Commission (T=2:09): need to "justify an expansion of the loan" and "needs 3 years to prove the concept.
2) to compliance with the current code, good faith, construction of structures, and development of infrastructure (all of which have been proven incorrect);
3) the Project Review Form, which wrongly confirms compliance with the current code;

4) and the developer's verbal statements before the planning commission, which contradicted earlier claims that funding had been secured: to Commission (T=2:09): need to “justify an expansion of the loan” and “needs 3 years to prove the concept”.

Gmail

---------- Forwarded message ---------
From: **Barton-Holmes, Christine** <Christine.Barton-Holmes@austintexas.gov>
Date: Fri, 4 Aug 2023 at 15:49
Subject: RE: Green Pasture Project / Request for public information
To: Bennett, Jennifer <Jennifer.Bennett@austintexas.gov>, Milena Boytchef <[redacted]>
Cc: Chaffin, Heather <Heather.Chaffin@austintexas.gov>

Milena,

I can offer some additional clarification on the infrastructure issue. We'd been asking the applicant for more information regarding exactly what had been done physically on the site, and unfortunately didn't receive that information until the day of the hearing. From their descriptions it sounded as though some construction had taken place. Upon further examination of what we've been provided, it appears that while the paperwork regarding constructing the infrastructure, including financial and legal documents, was in place, earthwork had not begun yet, and thus I misspoke at Commission. I apologize for the confusion. That said, the documents provided by the applicant further support staff's position that the applicant has made and continues to make a good faith effort to complete their project.

If you have any questions, please let me know.

Thank you,

Christine

Christine Barton-Holmes, CNUa, LEED AP

Program Manager, Land Use Review

City of Austin

Development Services/Austin Code

6310 Wilhelmina Delco Dr., Austin, TX 78752

April 20, 2023

Development Services Department
City of Austin
6310 Wilhelmina Delco Dr.
Austin, Texas 78752

Subject: Green Pastures SP-2015-0543C (XT2)
CEC Project 181-602

Dear DSD Staff,

On behalf of AC 811 W LIVE OAK LLC, CEC is submitting this letter to provide detailed information on how we are meeting the requirements of subsection C (1) and C (2) of Section 25-5-62- Extension of Released Site Plan by Director. Per this subsection, the extension should meet one of the four options in C (1) a) through d). We feel we comply fully with a, b, c and d. We also comply fully with C (2).

Please see our detailed responses to each of the codes sections below:
.

a) The site plan substantially complies with the requirements that apply to a new application for site plan approval;

The site plan received a 1-year extension prior to this request for a second extension. During that review we showed compliance with new application requirements. We also had a correction approved prior to this new extension request. This site plan substantially complies with new application code. We've shown how the infrastructure can handle Atlas 14 rainfall events and we continue to provide green water treatment by using ran gardens to handle our water quality. All detail sheets have been updated to the most up-to-date City of Austin Standard details.

b) The applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;

After approval of the site plan, COVID occurred, and the hotel capital markets took a major hit and underwent a lot of change. The hotel components of this site plan were revised to reflect the market and lender changes. The owner has signed a letter of intent with a GC, obtained building permits for the second phase just prior to the expiration of the first extension, and construction is imminent.

c) The applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or

The first phase of the site plan is complete. This phase included the interior remodeling of the previous Green Pastures restaurant, and the improvement of the restaurant's landscape, hardscape and parking areas associated with the restaurant. In addition, gas, water, and underground electric infrastructure were constructed for not only this first phase but also to handle the future hotel phases.

d) The applicant has constructed a significant portion of the infrastructure required for development of the original site plan;

Gas, water, and underground electric infrastructure were constructed for not only this first phase of this site plan but also to handle the future hotel phases.

C (2) The site plan did not require a Traffic Impact Analysis as the number of trips per day is less than 2,000 trips per day. However, a neighborhood traffic study was approved during the initial site plan. The uses have not changed, and the current site plan continues to fall within the study parameters. A street impact fee is now imposed since original site plan approval and all new building permits will continue to pay this fee.

Please accept the following informative letter describing compliance to Section 25-5-62- Extension of Released Site Plan by Director. If you have any questions or concerns, please feel free to contact me at 512.439.0400 or ckimbell@cecinc.com.

Sincerely,

Chad Kimbell, P.E.
Vice President

August 7, 2023

To the Attention: City Council

Subject: Green Pastures Site Permit Extension SP-2015-0543C(XT2)

Dear Councillors

This letter is a formal request to City Council to review the decision of the Planning Commission with respect to the application for the extension of the existing site permit for 811 West Live Oak Street (site permit 2015-0543C).

I am an Interested Party, as determined, as determined by 25-1-131 of City Code.

As you are aware, when addressing a second Site Plan extension request, a Public Hearing is held where the Planning Commission evaluates oral arguments from City Planners and Applicant.

It has been determined that City Planners mislead the Planning Commission during questioning at the Public Hearing. **On the most significant argument put forward in their recommendation to grant a second Permit Extension, to Commissioners' question "Have they turned dirt?" Planners responded "yes they turned dirt" and in an email following the Hearing (attached), the same Planner has indicated to be misinformed.***

As Planners' second argument was "Good Faith", I submit to City Council that the Planning Commission debated on unfounded or untrue information and was NOT able to make sound judgement in a matter that impacts both for the Applicant and Citizens of Austin.

Further discrepancies between what the developer written and oral arguments to Planners and Commission will be presented to you, should you choose to entertain a Review.

Thank you for your attention in this very serious matter.

Best regards,

Simon Eastwood, 2302 S 3rd St, [redacted], [redacted]

* July 25th 2023 Public Hearing of Planning Commission: Time 2:03:00

Brief Site Plan Background

This image was taken on June 18th, 2023 and depicts exactly the site in 811 W Live Oak St where the applicant of hotel site permit, assessed in 2015, indicated the project would be built. Despite the considerable time elapsed, no structure or significant infrastructure has been constructed.

No progress has been made since original permitting.

The initial application for the project's site permit was made in November 2015 and subsequently approved in April 2017 for a three-year period. A building permit was also issued in February 2019. Despite these permits being in effect for over five years, and at times simultaneously, there has been no discernible progress towards the project's completion.

The Site Plan proposed for second Extension does not meet current compatibility codes.

The proposed hotel design stands at over 38 feet and spans three stories, with only a 16-foot setback to numerous SF-3 residential properties. In contrast, even the most recent relaxed compatibility code update stipulates a minimum 50-foot setback from triggering houses for any buildings exceeding 30 feet or three stories.

Under the 2015 Site Plan, this three-story major hotel was allowed only a 16-foot setback to several SF-3 triggering houses. The grounds are designated Historic and GR Zoning - a designated *community*-commercial zoning district – well inside the neighbourhood and away from major roads, should not have been sanctioned for such a major construction.

Siting exceptions for Historical Landmark Sites, the developer initially applied for a site permit in 2015, putting forward a proposal that in 2015 was only loosely adherent to City Compatibility Standards. City Council passed Resolution No 20160609 – 049 in 2016 that removed exemptions for H zoning however the developer, with current 2022 Site Plan submittal makes no effort to meet Resolution 20160609 to align with Austin's compatibility standards on setbacks and height.

The Developer does not meet the bar for second Site Permit Extension, under 25-5-62 of the Land Development Code

To qualify for an extension of the site plan permit, a compelling reason for the extension request must be presented by the developer. Additionally, they must fulfil at least one of the following criteria as stipulated in §25-5-62 of the Land Development Code:

(a) the site plan substantially complies with the requirements that apply to a new application for site plan approval;
(b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
(c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
(d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan;

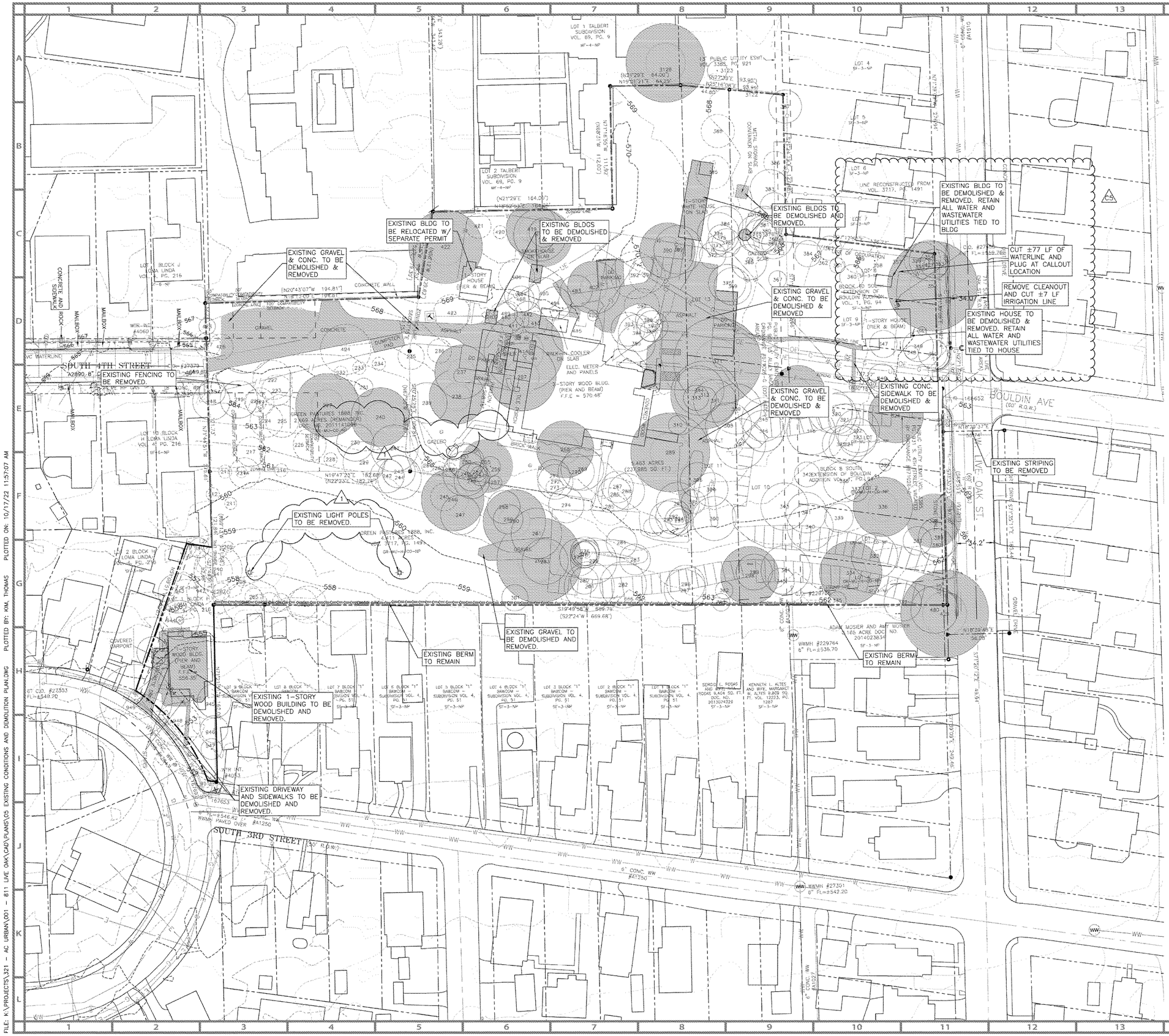
The developer submitted an Engineering Letter on Dec 15, 2022, revised and expanded on April 20th, 2023 as part of the developer's application for extension with following claims**:**

With respect to (a)*,*
The developer claims to meet current code. This is simply misleading as the developer's proposed site plan does not meet the current compatibility code. The proposed building height and setback in the developer's plan do not conform to today's regulations.

With respect to (b)*, the developer claims that it filed the original application in Good Faith but didn't secure funding during the original site permit between April 2017-April 2020 due to COVID, or break ground.*
WHO declared the COVID pandemic at the end of March 2020. At the Hearing, Commissioners heard that a shorter 2 year extension would NOT be sufficient to secure funding, and complete the project. In the context of a site plan permit, Good Faith is generally understood as the developer having acquired the necessary funding, obtained all required permits, and initiated the construction process. Presently, eight years after the original site plan application and over five years post the granting of the site plan permit, the hotel site remains devoid of any constructed building or extended infrastructure.

With respect to (c)*, the developer claims that at least one structure, specifically the remodelling of the old restaurant building, has been completed.*
This is misleading, and excluded by Planners, as the restaurant is not part of the site plan permit for this hotel project.

With respect to (d)*, the developer claims that the constructed gas, water, and underground electric infrastructure for the upgraded restaurant is there to handle the future hotel too.*
However, as of the writing of this I understand that the developer has submitted no documents or specific details regarding which components of the infrastructure upgrade for the restaurant were explicitly designed or oversized to accommodate the future hotel and can be considered a significant. During the Hearing, Commissioners heard from the developer that progress on infrastructure was visible from Google Maps – this contradicts its previous statement above.



LINETYPE LEGEND

EXISTING

- RIGHT OF WAY
- LOT BOUNDARY
- EASEMENT
- FENCE: BARBED
- FENCE: WOOD (PICKET)
- FENCE: WOOD (PRIVACY)
- FENCE: CHAIN LINK
- FENCE: IRON
- MAJOR CONTOUR
- MINOR CONTOUR
- ELECTRIC LINE
- OVERHEAD ELECTRIC
- UNDERGROUND ELECTRIC
- GAS LINE
- WASTE WATER LINE
- WATER LINE
- FIRE LINE
- ROAD CENTERLINE
- CURB & GUTTER
- STRIPING
- FIRE LANE STRIPING
- H.C. ACCESSIBLE ROUTE
- LIMITS OF CONSTRUCTION
- STORM SEWER
- CONCRETE
- EXISTING BERM
- FEMA 100 YEAR FLOODPLAIN
- COA 25 YEAR FLOODPLAIN
- COA 100 YEAR FLOODPLAIN

BLOCK LEGEND

EXISTING

- BENCHMARK
- IRON PIPE
- IRON ROD
- MONUMENT TYPE 1
- MONUMENT TYPE 2
- MONUMENT TYPE 3
- NAIL
- PIPE BREAK
- PIPE CAP
- PIPE FLOW
- REDUCER
- UTILITY VALVE
- UTILITY METER
- BACKFLOW PREVENTER
- FIRE HYDRANT
- WASTE WATER M.H.
- CLEANOUT
- STORM M.H.
- DOWN SPOUT
- AREA INLET
- CURB INLET
- ELEC. M.H.
- ELEC./TELE. POLE
- GUY WIRE
- LIGHT FIXTURE
- SIGN
- BOLLARD/GUARD POLE
- TREE
- HERITAGE TREE

CITY OF AUSTIN APPROVED Date 12/08/2022 FOUNDED 1839

NOTES:

1. ALL DEMOLITION WITHIN THE CRITICAL ROOT ZONE OF PROTECTED AND HERITAGE TREES TO BE COMPLETED WITH HAND TOOLS OR SMALL EQUIPMENT.
2. SEE TREE LIST, SHEET 6 OF SET.

C5

REPLACEMENT SHEET

!!! CAUTION !!! **!!! CAUTION !!!**

IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY ALL EXISTING UTILITIES VERTICALLY AND HORIZONTALLY PRIOR TO CONSTRUCTION, and NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.

FOR CITY USE ONLY:

SITE PLAN APPROVAL SHEET 05 OF 45
FILE NUMBER SP-2015-0543C APPLICATION DATE NOV. 25, 2015
APPROVED BY COMMISSION ON _____ UNDER SECTION 112 OF
CHAPTER 25-5 OF THE CITY OF AUSTIN CODE. SCOTT
EXPIRATION DATE (25-5-81.LDC) _____ CASE MANAGER GRANTHAM
PROJECT EXPIRATION DATE (ORD.970905-A) _____ DWPZ _____ DDZ X

Director, Planning and Development Review GR-MU-H-CO-NP, GR-MU-CO-NP,
RELEASED FOR GENERAL COMPLIANCE: _____ ZONING: SF-3-NP
Rev. _____ Correction 1 _____
Rev. _____ Correction 2 _____
Rev. _____ Correction 3 _____

Final plat must be recorded by the Project Expiration Date, if applicable. Subsequent Site Plans which do not comply with the Code current at the time of filing, and all required Building Permit and/or a notice of construction (if a building permit is note required), must also be approved prior to the Project Expiration Date.

REV	REVISION / DESCRIPTION	DATE
1	ADDED & REMOVED SHEET CALLOUTS AND ADDED NOTES TO SHEET	03/27/17
4	SHEET SUBMITTED FOR SIGNATURES BY AND AND AW. DSE, COORDINATING OF INITIAL SIGNATURES. ADDED CONCRETE TO LEGEND, ADDED CALLOUT SHEDWINGS EXISTING UTILITIES.	07/20/2020
5		10/17/2022

CLIENT INFORMATION

AC 811 W LIVE OAK, LLC

ENGINEERING CONSULTING kbge

KIMBELL I BRUEHL I GARCIA I ESTES
105 West Riverside Drive, Ste 110, Austin, Texas 78704
T (512) 439-0400 www.kbge-eng.com
TBPE No.F-12802

GREEN PASTURES
811 W. LIVE OAK
SITE DEVELOPMENT PLANS

CITY OF AUSTIN, TRAVIS COUNTY, TX

EXISTING CONDITIONS AND DEMOLITION PLAN

November 25, 2015

STATE OF TEXAS — CHAD KIMBELL — 99810 — LICENSED PROFESSIONAL ENGINEER

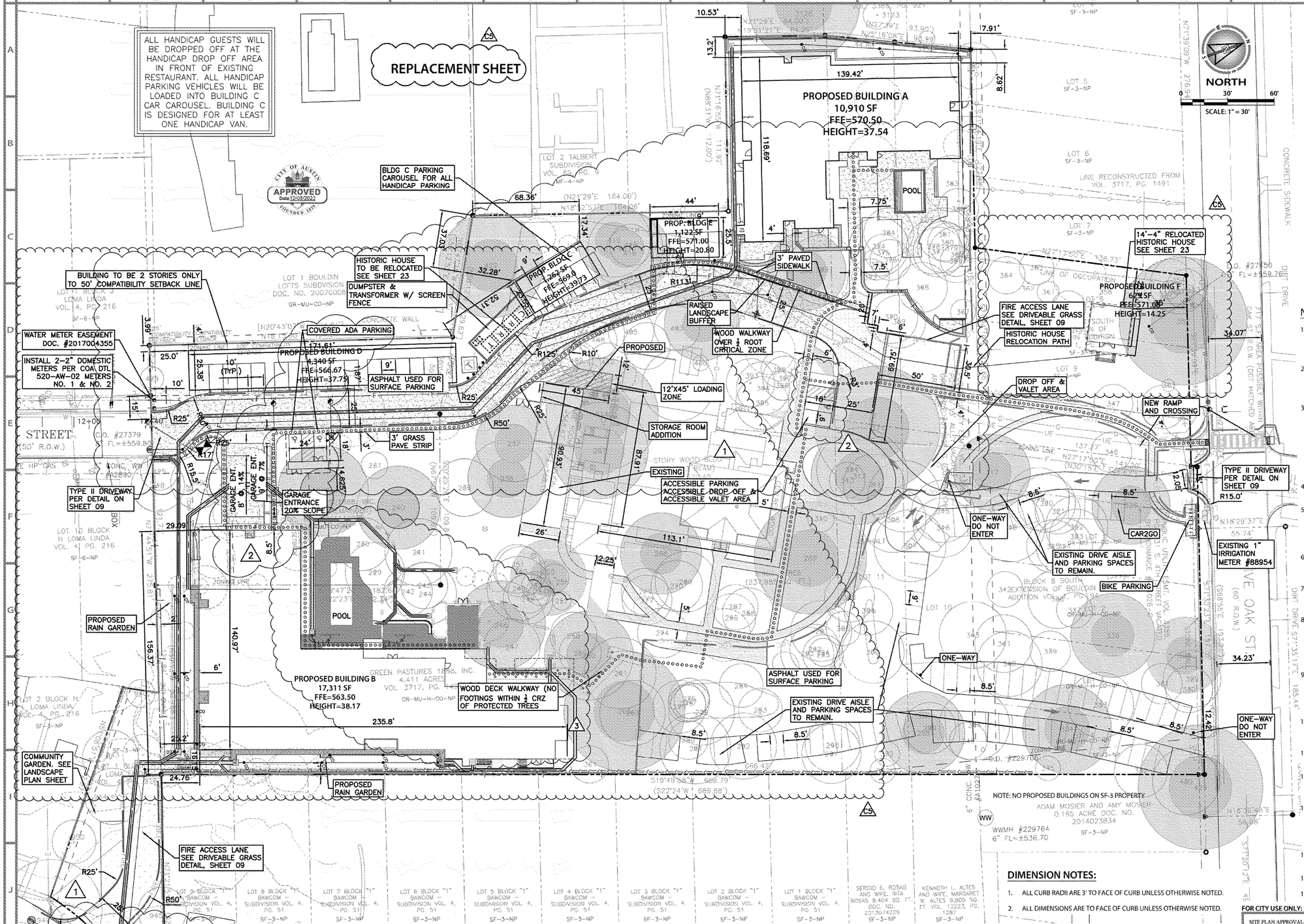
CHECKED BY: CHAD KIMBELL, PE

JOB NUMBER: 321-001 | ISSUE DATE: 11/25/15

SHEET: 05 OF 45 C5

SP-2015-0543C

FILE: K:\PROJECTS\321 - AC URBAN\001 - 811 LIVE OAK\CAD\PLANS\05 EXISTING CONDITIONS AND DEMOLITION PLAN.DWG PLOTTED BY: KIM, THOMAS PLOTTED ON: 10/17/22 11:57:07 AM



BLOCK LEGEND

PROPOSED	EXISTING	
		BENCHMARK
		IRON PIPE
		IRON ROD
		MONUMENT TYPE 1
		MONUMENT TYPE 2
		MONUMENT TYPE 3
		NAIL
		PIPE BREAK
		PIPE CAP
		PIPE FLOW
		REDUCER
		UTILITY VALVE
		UTILITY METER
		BACKFLOW PREVENTER
		FIRE HYDRANT
		WASTE WATER M.H.
		CLEANOUT
		STORM M.H.
		DOWN SPOUT
		AREA INLET
		CURB INLET
		ELEC. M.H.
		ELEC./TELE. POLE
		GUY WIRE
		LIGHT FIXTURE
		SIGN
		BOLLARD/GUARD POLE
		TREE

NOTES:

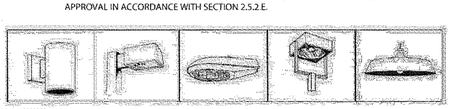
1. A MINIMUM VERTICAL CLEARANCE OF 114" MUST BE PROVIDED AT ACCESSIBLE PARKING LOADING ZONES AND ALONG VEHICLE ACCESS ROUTES TO SUCH AREAS FROM SITE ENTRANCES.
2. SLOPES ON ACCESSIBLE ROUTES MAY NOT EXCEED 1:20 UNLESS DESIGNED AS A RAMP. ACCESSIBLE PARKING MUST HAVE A CROSS SLOPE NO GREATER THAN 1:50.
3. EVERY ACCESSIBLE PARKING SPACE MUST BE IDENTIFIED BY A SIGN, CENTERED AT THE HEAD OF THE PARKING SPACE. THE SIGN MUST INCLUDE THE INTERNATIONAL SYMBOL OF ACCESSIBILITY AND STATE RESERVED OR EQUIVALENT LANGUAGE. CHARACTERS AND SYMBOLS ON SUCH SIGNS MUST BE LOCATED 60" MIN. ABOVE GROUND SO THAT THEY CANNOT BE OBSCURED BY A VEHICLE PARKED IN THE SPACE.
4. WATER AND WASTEWATER SERVICE WILL BE PROVIDED BY THE CITY OF AUSTIN.
5. A DRIVEWAY/SIDEWALK (DS) PERMIT IS REQUIRED FOR ALL SIDEWALK AND DRIVEWAY CONCRETE WORK IN CITY OF AUSTIN R.O.W. AN EXCAVATION PERMIT (EX) IS REQUIRED FOR ALL UTILITY WORK IN CITY OF AUSTIN R.O.W.
6. RIGHT OF WAY USE CHARGES WILL APPLY FROM THE DATE OF EXCAVATION TO THE DATE OF FULL RESTORATION.
7. ALL LANDSCAPED AREAS TO BE PROTECTED BY SIX-INCH WHEEL CURBS, WHEEL STOPS OR OTHER APPROVED BARRIERS AS PER ECM 2.4.7.
8. CONTRACTOR TO VERIFY THE LOCATION OF THE UNDERGROUND UTILITIES AT LEAST 100 FT IN ADVANCE OF ALL PROPOSED UTILITY CROSSINGS, AND ALSO AT LOCATIONS WHERE THE PROPOSED FACILITIES ARE DEPICTED TO RUN PARALLEL TO AND WITHIN 5 FT OF EXISTING FACILITIES.
9. ALL IMPROVEMENTS SHALL BE MADE IN ACCORDANCE WITH THE RELEASED SITE PLAN. ANY ADDITIONAL IMPROVEMENTS WILL REQUIRE SITE PLAN CORRECTION AND APPROVAL OF THE DEVELOPMENT REVIEW DEPARTMENT.
10. APPROVAL OF THIS SITE PLAN DOES NOT INCLUDE BUILDING AND FIRE CODE APPROVAL OR BUILDING PERMIT APPROVAL.
11. ADDITIONAL ELECTRIC EASEMENTS MAY BE REQUIRED AT A LATER DATE.
12. FOR DRIVEWAY CONSTRUCTION: THE OWNER IS RESPONSIBLE FOR ALL COSTS FOR RELOCATION OF, OR DAMAGE TO UTILITIES.
13. ALL NEW PAVING TO BE ASPHALTIC CONCRETE PER GEOTECHNICAL RECOMMENDATIONS AND PROVIDE FIRE LANES DESIGNED TO HANDLE 80,000 LBS. PER HOLT ENGINEERING GEOTECHNICAL REPORT DATED: 12/04/2015.
14. THERE ARE NO ACCESSIBLE UNITS OR PUBLIC AMENITIES REQUIRED TO MEET IBC 1104.2, 1107.6.
15. SEE CAR SHARING NOTES PAGE 06.
16. SEE LANDSCAPE PLAN & CALCULATIONS SHEET (SHEET 37) FOR SURFACE PARKING MATERIAL.

DIMENSION NOTES:

1. ALL CURB RADII ARE 3' TO FACE OF CURB UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.

SUBCHAPTER E DESIGN STANDARDS NOTES:

1. ALL EXTERIOR LIGHTING WILL BE FULL CUT-OFF AND FULLY SHIELDED IN COMPLIANCE WITH SUBCHAPTER E 2.5 AND WILL BE REVIEWED DURING BUILDING PLAN REVIEW. ANY CHANGE OR SUBSTITUTION OF LAMP/LIGHT FIXTURES SHALL BE SUBMITTED TO THE DIRECTOR FOR APPROVAL IN ACCORDANCE WITH SECTION 2.5.2.E.



2. ALL DUMPSTERS AND ANY PERMANENTLY PLACED REFUSE RECEPTACLES WILL BE LOCATED AT A MINIMUM OF TWENTY (20) FEET FROM A PROPERTY USED OR ZONED AS SF-5 OR MORE RESTRICTIVE. SCREENING FOR SOLID WASTE COLLECTION AND LOADING AREAS SHALL BE THE SAME AS, OR OF EQUAL QUALITY TO, THE PRINCIPAL BUILDING MATERIALS.
3. EXTERIOR LIGHTING ABOVE THE SECOND FLOOR IS PROHIBITED IN THE GO, LR, GR, CS, OR CS-1 ZONING DISTRICTS, WHEN ADJACENT TO AN SF-5 OR MORE RESTRICTIVE ZONING DISTRICT (SECTION 25-2-585).
4. THE USE OF HIGHLY REFLECTIVE SURFACES, SUCH AS REFLECTIVE GLASS AND REFLECTIVE METAL ROOF5, WHOSE PITCH IS MORE THAN A RUN OF SEVEN (7) TO RA RAISE OF TWELVE (12), WILL BE PROHIBITED. [SECTION 25-2-1067]
5. THE NOISE LEVEL OF MECHANICAL EQUIPMENT WILL NOT EXCEED 70 DBA AT THE PROPERTY LINE ADJACENT TO RESIDENTIAL USES. (SECTION 25-2-1067.

NOTES:

1. **THIS SITE IS COMPOSED OF THIRTEEN LOTS, AND TRACTS, AND HAS BEEN APPROVED AS ONE COHESIVE DEVELOPMENT AND RECORDED AS DOCUMENT NO. 2017004354. IF PORTIONS OF THE LOTS ARE SOLD, APPLICATION FOR SUBDIVISION AND SITE PLAN APPROVAL MAY BE REQUIRED.**
2. DO NOT DISTURB NATURAL GRADE BY MORE THAN 4 INCHES FOR CUT OR FILL WITHIN THE 1/2 CRITICAL ROOT ZONE. EXCAVATION WITHIN THE 1/2 CRITICAL ROOT ZONE TO BE DONE BY HAND.

LINETYPE LEGEND

PROPOSED	EXISTING	
		RIGHT OF WAY
		LOT BOUNDARY
		EASEMENT
		FENCE: BARBED
		FENCE: WOOD (PICKET)
		FENCE: WOOD (PRIVACY)
		FENCE: CHAIN LINK
		FENCE: IRON
		MAJOR CONTOUR
		MINOR CONTOUR
		ELECTRIC LINE
		OVERHEAD ELECTRIC
		UNDERGROUND ELECTRIC
		GAS LINE
		WASTE WATER LINE
		WATER LINE
		FIRE LINE
		ROAD CENTERLINE
		CURB & GUTTER
		STRIPING
		FIRE LANE STRIPING
		H.C. ACCESSIBLE ROUTE
		LIMITS OF CONSTRUCTION
		STORM SEWER
		CONCRETE
		EXISTING BERM
		FEMA 100 YEAR FLOODPLAIN
		COA 25 YEAR FLOODPLAIN
		COA 100 YEAR FLOODPLAIN

FOR CITY USE ONLY:

SITE PLAN APPROVAL SHEET 07 OF 45
FILE NUMBER SP-2015-0543C APPLICATION DATE NOV. 25, 2015
APPROVED BY COMMISSION ON_____ UNDER SECTION 112 OF
CHAPTER 25-5 OF THE CITY OF AUSTIN CODE SCOTT
EXPIRATION DATE (25-5-81.LDC)_____ CASE MANAGER GRANTHAM
PROJECT EXPIRATION DATE (ORD.#970905-A)_____ DWPZ_____ DDZ X
Director, Planning and Development Review GR-MU-H-CO-NP, GR-MU-CO-NP,
RELEASED FOR GENERAL COMPLIANCE:_____ ZONING: SF-3-NP
Rev._____ Correction 1_____
Rev._____ Correction 2_____
Rev._____ Correction 3_____
Final plat must be recorded by the Project Expiration Date, if applicable. Subsequent Site Plans which do not comply with the Code current at the time of filing, and all required Building Permit and/or a notice of construction (if a building permit is note required), must also be approved prior to the Project Expiration Date.

REV	REVISION / DESCRIPTION	DATE
1	ADDED FIRE LT TO BLDGS, REVISED FLATWORK PLAN, ADDED DRIVEWAY TO SOUTH, REVISED PARKING	09/12/17
2	GARAGE ENTRANCES & ACCESSIBLE PARKING SPACES	12/11/18
3	NEW BUILDING AND STORM DRAIN LAYOUT	10/23/19
4	Single family residential lots have been removed from site plan. DUE TO EXPIRATIONS OF INITIAL SIGNATURES.	07/06/2020
5	Update building, sidewalk, paving, site gardens, dorm and wastewater with bypass, add wood walk, relocated historic house	11/22/2022

CLIENT INFORMATION

AC 811 W LIVE OAK, LLC

ENGINEERING CONSULTING kbge

KIMBELL I BRUEHL I GARCIA I ESTES
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TBPE No.F-12802

GREEN PASTURES
811 W. LIVE OAK
SITE DEVELOPMENT PLANS
CITY OF AUSTIN, TRAVIS COUNTY, TX

SITE PLAN

November 25, 2015

STATE OF TEXAS — CHAD KIMBELL — 99810 — LICENSED PROFESSIONAL ENGINEER

CHECKED BY: CHAD KIMBELL, PE
JOB NUMBER: 321-001
ISSUE DATE: 11/25/15
SHEET 07 OF 45
C5

SP-2015-0543C

FILE: K:\PROJECTS\321 - AC URBAN\001 - 811 LIVE OAK\CAD\PLANS\07 SITE PLAN.DWG PLOTTED BY: KIM, THOMAS PLOTTED ON: 11/22/22 9:49:00 AM

June 19th, 2023

Todd Shaw, Chair
City of Austin Planning Commission

Subject: Green Pastures Site Permit Extension SP-2015-0543C(XT2)

Dear Chairman Shaw, dear Planning Commissioners:

This letter is a formal request to the planning commission to decline the application for the extension of the existing site permit for 811 West Live Oak Street as the requisite criteria detailed in the Land Development Code 25-5-62 for such an extension have not been met. We urge that the proposed development be acknowledged as a new project and be required to conform to the prevailing current Land Development Code of Austin. This action will guarantee that all new developments, what this project actually is, adhere to current regulations to the furthest extent feasible. This case should not set a precedent, nor should it foster an environment where there's a lack of fairness, justice, or equality for the residents and developers in the City of Austin.

This image was taken on June 18th, 2023 and depicts exactly the site in 811 W Live Oak St where the hotel should have been built since applied for in 2015. Despite the considerable time elapsed, no structure or significant infrastructure has been constructed.

The initial application for the project's site permit was made in November 2015 and subsequently approved in April 2017 for a three-year period. A building permit was also issued in February 2019. Despite these permits being in effect for over five years, and at times simultaneously, there has been

no discernible progress towards the project's completion. The developer's only consistent endeavor to date has been to attempt to maintain the existing site permit under outdated 2015 regulations that allowed him at first place to get approval of a site plan for a three-story luxury hotel having only a 16-foot setback to several SF-3 triggering houses.

The Green Pastures project doesn't aim to provide affordable or even any residential housing options. Instead, it's designed to function as yet another upscale hotel primarily for people not living in Austin. Despite the project's location within a GR - a designated *community*-commercial zoning district - which is supposedly intended to promote community and neighborhood benefits, it principally serves the developer's commercial interests.

We see no compelling reason to grant an extension to a project that remains firmly anchored in the superseded Land Development Code of 2015 and has now failed for over five years to demonstrate any substantial progress towards completion.

Substantial non-compliance with current and recently updated compatibility code:

The proposed hotel design stands at over 38 feet and spans three stories, with only a 16-foot setback to numerous SF-3 residential properties. In contrast, even the most recent relaxed compatibility code update stipulates a minimum 50-foot setback from triggering houses for any buildings exceeding 30 feet or three stories.

When the developer initially applied for a site permit in 2015, they took advantage of an exception in the land development code, putting forward a proposal that does not adhere to the compatibility standards. The previous Land Development Code used to have an exemption for new developments on historical landmark sites, which allowed the developer to bypass compliance with the compatibility code. However, this exemption was removed in 2016 from the Land Development Code with Resolution No 20160609 - 049. Even after significant modifications to the proposed hotel design most recently, the developer has continuously failed to meet Austin’s compatibility standards.

Not meeting the requirements for site permit extension:

The Green Pasture project has remained dormant for more than five years, despite possessing a site plan permit and at times, a building permit. The developer hasn't made any strides towards completion, their only action has been to file for site plan and building permit extensions in an attempt to exploit loopholes and extend the validity of the existing site plan permit.

To qualify for an extension of the site plan permit, a compelling reason for the extension request must be presented by the developer. Additionally, they must fulfil at least one of the following criteria as stipulated in § 25-5-62 of the Land Development Code:

(a) the site plan substantially complies with the requirements that apply to a new application for site plan approval;
(b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
(c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or
(d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan;

The developer submitted an Engineering Letter on Dec 15, 2022 and re-submitted a corrected version on April 20th, 2023 as part of his application for extension with following claims:

***With respect to (a)**, the developer has indicated that they believe they satisfy the necessary requirements for a new application.*
However, the developer's proposed site plan does not meet the current compatibility code. The proposed building height and setback in the developer's plan do not conform to today's regulations.

***With respect to (b)**, the developer claims that he filed the original application in good faith but didn't secure funding during the original site permit between April 2017-April 2020 due to COVID.*
In the context of a site plan permit, good faith is generally understood as the developer having acquired the necessary funding, obtained all required permits, and initiated the construction process. However, the site plan permit was approved in April 2017 - two years and 11 months before the WHO declared the COVID pandemic at the end of March 2020. The developer went through the process of applying for a building plan permit. However, despite the building permit being granted in February 2019 for the typical period of 180 days - a timeframe entirely unaffected by the COVID pandemic - the developer failed to secure funding and commence any construction work for the proposed hotel or the required infrastructure. Presently, eight years after the original site plan application and over five years post the granting of the site plan permit, the hotel site remains devoid of any constructed building or extended infrastructure.

***With respect to (c)**, the developer claims that at least one structure, specifically the remodelling of the old restaurant building, has been completed.*
However, the restaurant was and is not part of the site plan permit for this hotel project and therefore does not constitute progress towards fulfilling the requirements of the approved development project.

***With respect to (d)**, the developer claims that the constructed gas, water, and underground electric infrastructure for the upgraded restaurant is there to handle the future hotel too.*
However, no specific details are provided regarding which components of the infrastructure upgrade for the restaurant were explicitly designed or oversized to accommodate the future hotel and can be considered a significant part of the hotel's infrastructure. While the upgrades made to the utilities for the restaurant may be functional, they do not pertain to the proposed hotel buildings and supporting structures that are the subject of the site plan permit. The restaurant is not included in this site plan permit.

We, the undersigned neighbors respectfully request that, due to the failure to meet any of the factors as stipulated in § 25-5-62 of the Land Development Code, the Commission decline the application for the extension of the existing site plan permit for 811 West Live Oak Street and instead require conformity with current Land Development Code.

Sincerely,

Milena Boytchef, 2304 S 3rd St, [redacted], [redacted]
Charles Evan Kalbacher, 2306 S 3rd St, [redacted], [redacted]
Jacquelyn DiMonte, 2306 S 3rd St, [redacted], [redacted]
Matthew O'Hayer, 2309 S 4th St, [redacted], [redacted]
Antony Cherian, 2310 Oak Crest Ave, [redacted], [redacted]
Nick Sargologos, 812 W Live Oak St, [redacted], [redacted]
Peter Minshall , 2304 S 3rd St, [redacted], [redacted]
Simon Eastwood, 2302 S 3rd St, [redacted], [redacted]
Elizabeth Winkler, 2210 S 3rd St, [redacted], [redacted]
Chatrine Gross Hendren, 2307 S 3rd Street, [redacted], [redacted]

June 20, 2023

Attention: Chairman Shaw and Members of the Austin Planning Commission

CC: District 9 City Council Member, Mr. Zohaib Qadri and Austin City Mayor, Mr. Kirk Watson

Subject: Concerns Regarding the Proposed Hotel Development of Green Pastures located at 811 West Live Oak Street in the Bouldin Creek Neighborhood.

Dear Chairman Shaw and Respected Members of the Austin Planning Commission,

I trust this letter finds you well, continuing your invaluable work of maintaining Austin's unique spirit while also fostering its growth and progress.

The purpose of this letter is to voice profound concerns regarding the proposed hotel development project at Green Pastures in the Bouldin Creek Neighborhood. This landmark, more than a structure, embodies our shared legacy and community identity. However, in our view, the currently proposed hotel project is seeking to use the current property's grandfathered, non-conforming use to push through a project that is incompatible with the surrounding residential neighborhood of Bouldin Creek. This proposal will further strain the current infrastructure that was designed for residential uses (ie. roads, traffic patterns, drainage, etc…) to promote the interests of a commercial developer. Green Pastures as it currently exists, serves the greater Austin community and is appropriately sized to seamlessly fit within the Bouldin Creek Neighborhood. Our neighborhood is a patchwork of 1 and 2 story homes, a haven for families, and an environment that fosters interactions between neighbors and safe play for our children. This is a cherished way of life for us, and we fear this proposed significant increase in land development will fundamentally alter our quality of life.

Our community has discussed the potential implications of this project and we have identified several key concerns:

1. **Loss of Privacy**: The height and proximity of the proposed hotel would create a significant privacy issue, with hotel guests potentially having a direct view into our homes given the currently proposed 16-foot setback versus the updated land use code which requires a 50-foot setback for any buildings exceeding 30 feet or three stories.

2. **Noise and Light Pollution**: Increased noise from hotel guests, operations, and maintenance activities could disrupt the peace of our neighborhood. Additionally, increased light pollution could impact our quality of life, especially during nighttime hours.

3. **Increased Traffic and Parking Issues**: The absence of direct access to the hotel via commercial roads could lead to increased traffic flow through the Bouldin Creek neighborhood. This influx could affect pedestrian safety, particularly for children, and the tranquility of our streets. Also, if the hotel does not provide adequate parking, it could lead to parking overflow in the residential area.

   In addition, we are concerned about the increase of commercial and employee traffic this project will impose on the Bouldin Creek neighborhood. The residents of Bouldin Creek are already significantly impacted by the existing Green Pastures establishment. Each morning delivery trucks, sometime as large as tractor trailers, back up on S. 4th St. all the way onto Oltorf

St. Often these trucks have to backup blindly onto Oltorf from S. 4th as there is no way for these tractor trailers to turn around at Green Pastures, especially with other delivery and service trucks blocking the drive and street. This commercial and employee traffic will only worsen with the proposed expansion plan.

Finally, the development plan includes a second access point off S 3rd Street. The developer has indicated that this access road will only be used for limited purposes such as emergency vehicles. However, a more realistic outcome will be that hotel and event patrons will use this road when other access points back up.

4. **Risk of Water Runoff**: The construction and footprint of the hotel could exacerbate water runoff, potentially causing damage to the surrounding residential properties. While the developer has proposed the inclusion of some stormwater mitigation solutions, we are concerned that these measures do not adequately prevent excess rainwater from flowing into the yards of adjacent homes that are downhill from the proposed site.

5. **Inclusion, Diversity and Impact**: A large commercial project that embodies the above concerns, may negatively impact the value and continuity of our neighborhood without making our community more inclusive or affordable for families of Bouldin Creek. Our homes, community and children are our most valued assets. Instead, this project enables the construction of another upscale hotel primarily for people not living in Austin and to primarily serve the commercial and financial interests of the project's developers.

In addition to the above concerns, the towering structure of the proposed hotel starkly contrasts with the modest architecture that defines our neighborhood's charm. This could not only cast a literal shadow on our homes but also impact the intangible sense of community we hold dear.

In light of these pressing concerns, we the residents of the Bouldin Creek Neighborhood, kindly ask the Austin Planning Commission to decline the application for the extension of the existing site permit and require this project to meet the requirements of the City's current land use code. We want to clarify that we are not against development per se. Our concerns specifically revolve around the proposed extension of a permit that has been outstanding for several years, given the significant changes in our community and the broader Austin area during that time. We trust in the wisdom and fairness of the Commission to take our viewpoints into account and make a decision that best balances the interests of all parties involved.

Thank you for considering our concerns. We place our trust in you and your dedication to protecting Austin's essence while managing its growth.

Yours sincerely,

Residents of Bouldin Creek