ZONING CHANGE REVIEW SHEET

CASE: C14-06-0203

Z.A.P. DATE: December 19, 2006
January 23, 2007
February 6, 2007
February 20, 2007
March 6, 2007

ADDRESS: 9006 Cullen Lane

OWNER: Weldon J. Schmidt

AGENT: Armbrust & Brown, L.L.P.
(Richard T. Suttle, Jr.)

ZONING FROM: I-RR **TO:** GR **AREA:** 4.800 acres

SUMMARY STAFF RECOMMENDATION *(As of March 1, 2007):*

Please refer to Issues section, beginning on Page 2 of the Staff report.

SUMMARY STAFF RECOMMENDATION *(Prior to February 28, 2007):*

The Staff's recommendation is to grant community commercial (GR-CO) combining district zoning with conditions. The Conditional Overlay:

1) Provides a 40-foot wide undisturbed, vegetative buffer along the west property line where adjacent to or within 50 feet of single family residences;
2) Provides a 25-foot wide undisturbed vegetative buffer where adjacent to a detention pond;
3) Prohibits a dumpster or loading facility within 100 feet of a property used as a single family residence;
4) Prohibits the following uses: automotive rentals; automotive repair services; automotive sales; automotive washing (of any type); bail bond services; bed and breakfast residential (groups 1 and 2); club or lodge; commercial off-street parking; drop-off recycling collection facility; exterminating services; funeral services; hotel-motel; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; residential treatment; restaurant (general); restaurant (limited); service station; theater; and urban farm;
5) Limits height to 35 feet; and
6) Limits the number of daily trips to 2,000.

If the requested zoning is recommended for this site, then:
1) If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site.

2) Posting of fiscal surety is required to accommodate additional turning lane movements at the intersection of Cullen and Slaughter Lanes.

ZONING & PLATTING COMMISSION RECOMMENDATION:

December 19, 2006: *APPROVED A POSTPONEMENT UNTIL JANUARY 23, 2007 AT THE REQUEST OF THE STAFF, APPLICANT AND NEIGHBORHOOD.*
[J. MARTINEZ, S. HALE 2ND] (9-0)

January 23, 2007: *APPROVED A POSTPONEMENT BY STAFF TO FEBRUARY 6, 2007; BY CONSENT.*
[J. MARTINEZ; S. HALE – 2ND] (8-0) J. PINNELLI – ILL

February 6, 2007: *CONTINUED UNTIL FEBRUARY 20, 2007; PUBLIC HEARING REMAINS OPEN.*
[J. MARTINEZ; T. RABAGO – 2ND] (8-1, BAKER – NAY)

February 20, 2007: *POSTPONED TO 03/06/07 BY ZAP COMMISSION; PUBLIC HEARING CLOSED. A SUBCOMMITTEE COMPOSED OF THE AGENT, 2 REPRESENTATIVES FROM PARK RIDGE AND COMMISSIONERS RABAGO, BAKER AND MARTINEZ TO OCCUR ON WEDNESDAY, FEBRUARY 28, 2007, AND RETURN TO THE FULL COMMISSION ON 03/06/07 WITH FINAL RECOMMENDATIONS.*
[B. BAKER, J. GOHIL – 2ND] (8-0) K. JACKSON – ABSENT

March 6, 2007: *APPROVED GR-CO DISTRICT ZONING WITH A RESTRICTIVE COVENANT AS DESCRIBED ON PAGES 2, 3 AND 4 OF THE STAFF REPORT. THE CO COVERS VEGETATIVE BUFFERS, SIGNAGE, BUILDING SIZE, BUILDING HEIGHT, 3,000 VEHICLE TRIPS PER DAY UNLESS A TRAFFIC IMPACT ANALYSIS IS SUBMITTED AND APPROVED BY THE CITY OF AUSTIN, AND A LIST OF PROHIBITED USES. THE RESTRICTIVE COVENANT COVERS HOURS OF OPERATION, HOURS OF CONSTRUCTION, LOCATION OF DUMPSTERS, LOCATION OF LOADING DOCK, LIMIT ON DELIVERY HOURS, LIMIT ON OUTDOOR SOUND, THE USE OF NATIVE VEGETATION AND PREPARATION OF AN INTEGRATED PEST MANAGEMENT PLAN, TEMPORARY STORAGE CONTAINERS AND OUTDOOR LIGHTING. STREET DEED FOR ADDITIONAL RIGHT-OF-WAY ON CULLEN LANE, AND THE POSTING OF FISCAL SURETY FOR ADDITIONAL TURNING MOVEMENTS AT THE INTERSECTION OF CULLEN AND SLAUGHTER LANES.*
[J .MARTINEZ, K. JACKSON 2ND] (8-0) J. PINNELLI – ILL

ISSUES:

The Commission requested examples of the building square footages associated with well-known commercial businesses:

- 3,000 square feet: Taco Bell
- 5,000 square feet: Capital One Bank or Exxon Tigermarket
- 15,000 square feet: Walgreens or CVS

- 30,000 square feet: Circuit City
- 40,000 square feet: Office Depot / OfficeMax
- 50,000 square feet: Hobby Lobby

Summary on March 1, 2007
Representatives of Park Ridge Neighborhood Association have requested that the applicable site development standards contained in the Code and the City's Commercial Design Standards be those that are in effect as of the date of City Council approval. STAFF NOTE: The site development standards and the Commercial Design Standards are established at the time a site plan is submitted to the City for review.

On Wednesday, February 28, 2007, the Staff, Applicant, Agents, Madame Chair Baker, Commissioners Martinez and Rabago, and the President and a representative of the Park Ridge Neighborhood Association met to discuss the Cullen and Slaughter zoning cases. The following agreements were made and are identified as either a Conditional Overlay within a Zoning Ordinance **(CO)** or a Public Restrictive Covenant **(RC)**, with the exception of #6 as noted. Two concerns came up after the meeting and are shown in *italicized* print.

1. **Hours of operation:** No 24-hour business shall operate within 200 feet of a single family residential property line; **(RC)** *"In order to clarify intent and provide further specificity to the 24-hour provision, Park Ridge has requested that businesses located within 200 feet of the west property line be closed between the hours of 10:30 p.m. and 7 a.m. The Applicant and his Agents did not agree to this request.*
2. **Vegetative buffer:** Provide a 50-foot wide undisturbed, vegetative buffer along the west property line where adjacent to or within 50 feet of single family residences, except as defined as in LDC 25-1-21(27)(a) and (b) which allows for maintenance of vegetation and removal of damaged vegetation; **(CO)**
3. **Vegetative buffer:** Provide a 25-foot wide undisturbed vegetative buffer where adjacent to a detention pond, except as defined as in LDC 25-1-21(27)(a) and (b) which allows for maintenance of vegetation and removal of damaged vegetation; **(CO)**
4. **Hours of construction**: Hours of construction are limited to 7:00 a.m. to 7:00 p.m; **(RC)**
5. **Location of dumpsters:** Dumpster placement shall be the more restrictive of: a) a minimum of 150 feet from the west property line or b) that required by the City's Commercial Design Standards **(RC)**
6. **Limit pick-up time of dumpsters:** The Applicant and Park Ridge have agreed to limit the dumpster pick-up hours to occur between 7 a.m. and 9 p.m. **(must be captured a private RC, as dumpster pick-up is through a private company)**
7. **Location of loading dock:** Loading dock placement shall be the more restrictive of: a) a minimum of 100 feet from the west property line and any loading dock within 100 to 200 feet of the west property line shall not be located on the west wall of the building or b) that required by the City's Commercial Design Standards. **(RC)**
8. **Limit delivery hours:** Delivery hours are limited to 7:00 a.m. to 10: 30 pm. **(RC)**
9. **Sign restriction:** All signs on the property must comply with the Scenic Roadway sign regulations. **(CO)** **NOTE: This CO is only applicable to C14-06-0203 –**

Cullen Zoning, as C14-06-0204 – Slaughter Zoning is already subject to the Scenic Roadway provisions of the Code.

10. **Outdoor sound limitation:** The noise level of mechanical equipment may not exceed 70 db at the west property line. Any outside speakers shall be oriented away from the Neighborhood. *The Applicant's Agent has discussed the ability to place loudspeakers towards the Park Ridge single family residences, provided that the speakers are fully shielded by a building. As of the Staff report writing, the Applicant and Park Ridge were still trying to find a solution to this issue.* **(RC)**
11. **Native vegetation and Integrated Pest Management Plan:** An Integrated Pest Management Plan and native vegetation shall be used. **(RC)**
12. **Temporary Storage Containers:** Except during construction, outdoor storage containers for merchandise shall be prohibited. **(RC)**
13. **Outdoor lighting:** Outdoor lighting shall be limited to 20 feet in height and all fixtures shall be fully shielded with full cut-off light fixtures. **(RC)**
14. **Building size limitation:** A building for a single tenant shall not exceed 25,000 square feet. **(CO)**
15. **Building height limitation:** Building height is limited to 35 feet. **(CO)**
16. **Vehicle trips per day:** Development of C14-06-0203 is limited to a total of 3,000 trips per day unless a Traffic Impact Analysis is received and approved by the City. **(CO)** NOTE: Due to its acreage, shape and buffers described above, C14-06-0204 will not have a trip limitation.
17. **The following uses are prohibited**: automotive rentals; automotive repair services; automotive sales; automotive washing (of any type); bail bond services; bed and breakfast residential (groups 1 and 2); club or lodge; commercial off-street parking; drop-off recycling collection facility; exterminating services; funeral services; hotel-motel; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; residential treatment; restaurant (general); restaurant (limited); service station; theater; and urban farm;

If the requested zoning is recommended for this site, then the Staff recommends:
1) If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site.

2) Posting of fiscal surety is required to accommodate additional turning lane movements at the intersection of Cullen and Slaughter Lanes.

Monday, February 13, 2007 Meeting with Zoning Staff, one Agent and representatives of Park Ridge
Staff is also providing clarifications in regards to a number of issues that were raised at the meeting.

NOISE: Hours of construction is covered in Title 9, Prohibited Activities, Chapter 9-2, Noise and Amplified Sound. This section states that, "A person may not operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a

residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m." *General noise restrictions* specify that, "A person may not make noise or use sound equipment in public between 10:30 p.m. and 7:00 a.m." Attachment A provides relevant sections of Chapter 9-2. Article 10 – *Compatibility Standards* specifies that, "The noise level of mechanical equipment may not exceed 70 db at the property line." [LDC 25-2-1067(B)]

EXTERIOR LIGHTING: Commercial development will be subject to the Commercial Design Standards, adopted on January 13, 2007. Exterior lighting requires fully shielded and full cut-off light fixtures and as shown in Attachment B, the light source (lens) must be recessed and therefore, not visible.

FENCING: Compatibility Standards require that a screening fence be provided when commercially zoned property is adjacent to single family residence zoned property. In the subject case, there is an existing six-foot tall fence outside of the Applicant's west property line, within the boundaries of the single family residence lots. Screening requirements within the Compatibility Standards section require the Applicant to construct and maintain a screening fence along the west property line and that fence must be at least *six* feet tall [25-2-1066(B) and (C)]. However, Section 25-2-899(G)(1) – Fences as Accessory Uses states that, "A solid fence may be constructed to a height of *eight* feet if the fence is located between a residential use and property zoned as a commercial or industrial base district." Therefore, the Applicant must construct and maintain a screening fence along the west property line and that fence must be at least six feet tall and extend up to eight feet tall.

DEPARTMENT COMMENTS:

The subject platted lot is developed with one single family residence and a construction sales and service use, and zoned interim – rural residence (I-RR) district since its annexation into the City limits in 1996. This property has access to Cullen Lane, a collector street. The undeveloped, triangular-shaped property to the south is under separate ownership, and is also being considered for a zoning change from I-RR to GR. The adjacent property to the north is undeveloped (CS-CO, please refer to 1998-99 Case Histories section on Page 4). Adjacent to the southeast, there is a retail shopping center (GR-CO; CS-1-CO) and across Slaughter Lane to the south, there is the Southpark Meadows shopping development (GR-CO). To the east, across Cullen Lane there is a carpet sales business, a restaurant, a service station and auto repair uses (CS-CO). Single family residences within the Park Ridge subdivision and its detention pond are adjacent to the west (I-SF-4A). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant proposes community commercial (GR) district zoning for unspecified uses which may include a general retail uses and a financial services use. In consideration of the Applicant's request, the Staff reviewed the existing zonings on adjacent properties and land use patterns in the area. Cullen Lane includes commercial and warehouse uses with several properties zoned CS-CO and a 40-foot wide LO-CO vegetative buffer adjacent to Park Ridge residences in 1998 and 1999. The Conditional Overlay associated with these cases provides for fencing, the vegetative buffer, a list of prohibited uses, a 30-foot height limit, and a 2,000 trip limitation. The property owners dedicated right-of-way along Cullen Lane and entered

into a public Restrictive Covenant for a rollback to the warehouse – limited office (W/LO) district if an amendment to the Land Development Code was approved that permitted construction sales and service use in that district (it is presently a conditional use in W/LO). The character of the south side of Slaughter Lane has also largely changed from agricultural, and scattered construction sales and services and auto repair uses to include two large retail shopping centers zoned GR-CO.

Based on the conditional overlay that accounts for fencing, buffering and prohibited uses similar to previous cases on Cullen Lane, the Staff recommends the Applicant's request for GR zoning provided improvements to Cullen Lane are established. As Cullen Lane is considered a collector street in substandard condition, the Staff is also recommending additional right-of-way on Cullen Lane as well as improvements to turning lane movements at the intersection of Slaughter and Cullen Lanes. The additional right-of-way and improvements will facilitate traffic flow associated with commercial uses.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	I-RR	One single family residence; Construction sales and services
North	CS-CO	One single family residence; Undeveloped; Office / Warehouse
South	GR-CO; SF-2; RR	Southpark Meadows shopping center; Fast food restaurant; Pet services; Dental clinic; General retail sales (general); Financial services
East	CS-CO	Parking area; Auto tinting business; Restaurant general; Service station with convenience store
West	SF-4A	Detention pond and single family residences within the Park Ridge subdivision

AREA STUDY: N / A **TIA:** Is not required

WATERSHED: Onion Creek **DESIRED DEVELOPMENT ZONE:** Yes

CAPITOL VIEW CORRIDOR: No **SCENIC ROADWAY:** No

NEIGHBORHOOD ORGANIZATIONS:

26 – Far South Austin Community Association
242 – Slaughter Lane Neighborhood Association
262 – Beaconridge Neighborhood Association
300 – Terrell Lane Interceptor Association
428 – Barton Springs / Edwards Aquifer Conservation District
499 – Park Ridge Owners Association
511 – Austin Neighborhoods Council
627 – Onion Creek Homeowners Association
742 – Austin Independent School District

948 – South by Southeast Neighborhood Organization

SCHOOLS:

Williams Elementary School Bedichek Middle School Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-06-0161 – Southpark Meadows Building 19	GR-CO to CS-1	To Grant CS-1 for 15, 534 square feet.	Approved CS-1-CO with the CO to prohibit adult-oriented uses (11-2-06).
C14-05-0171 (The Grove at Southpark Meadows)	I-RR; LO-CO; CS-CO to GR-MU-CO for Tracts 1 and 2; SF-6 for Tract 3; SF-6-CO for Tract 4; GR-CO for Tract 5	To Grant GR-MU-CO for Tracts 1 and 2; SF-6 for Tract 3; SF-6-CO for Tract 4 and GR-CO for Tract 5, with additional prohibited uses and LR development standards, and the conditions of the Traffic Analysis with additional turning movements allowed	Approved GR-MU-CO for Tracts 1 and 2, SF-6 for Tract 3 and GR-CO for Tract 5 as ZAP recommended; SF-4A for Tract 4. A Restrictive Covenant for the Traffic Impact Analysis (5-18-06).
C14-05-0002 (Quick Tract)	RR to CS	Approved GR-CO with CO for list of prohibited and conditional uses. Restrictive Covenant for the Traffic Impact Analysis.	Approved GR-CO as recommended by ZAP. Restrictive Covenant is for the TIA (3-10-05).
C14-04-0075 (Southpark Meadows)	LO-CO; CS-1-CO to GR-CO	To Grant GR-CO with conditions of the TIA	Approved GR-CO with a Restrictive Covenant for the TIA, as recommended by ZAP (10-21-04).
C14-99-0129 (RCT)	To Terminate the Restrictive Covenant which addresses the discontinuance of a cocktail lounge use.	To Grant a Termination of the Restrictive Covenant	Approved a Termination of the Restrictive Covenant (10-21-04).
C14-04-0037 (Slaughter @	RR to GR	To Grant GR-CO with a list of prohibited uses	Approved GR-CO with CO for a list of

Cullen Commercial)		and conditions of the TIA (7-20-04)	prohibited and conditional uses; the Restrictive Covenant is for the TIA (8-26-04).
C14-03-0066 (Wal-mart: IH-35 and Slaughter Lane)	RR; SF-2; LI-CO; CS-CO and CS to GR	To Grant GR-CO with conditions of the TIA	Approved GR-CO with CO provide a 6' fence and landscaping along Cullen Lane; 2) direct all traffic south on Cullen Lane by way of limited function driveways onto Cullen Lane that allow right-in and left-out movements only; 3) the use of shielded / hooded lights throughout the site; and, 4) a list of prohibited uses and one accessory use. The Restrictive Covenant is for the TIA memorandum and an Integrated Pest Management (IPM) Plan and a landscape plan for the use of native and adapted plant materials (10-30-03).
C14-99-2063 – 8900 Block of Cullen Lane	I-RR to CS for Tract 1; LO for Tract 2	To Grant CS-CO for Tract 1; LO-CO for Tract 2. **(The CO is described below in C14-98-0226)**	Approved CS-CO for Tract 1; LO-CO for Tract 2 as Commission recommended (6-22-00).
C14-99-2007 – 8916 Cullen Lane	I-RR to CS for Tract 1; LO for Tract 2	To Grant CS-CO for Tract 1; LO-CO for Tract 2. **(The CO is described below in C14-98-0226)**	Approved CS-CO for Tract 1; LO-CO for Tract 2 as Commission recommended (1-27-00).
C14-99-0112 – 8816 Cullen Lane	DR to CS for Tract 1; LO for Tract 2	To Grant CS-CO for Tract 1; LO-CO for Tract 2. **(The CO is described below in C14-98-0226)**	Approved CS-CO for Tract 1; LO-CO for Tract 2 as Commission recommended (1-27-00).

C14-99-0075 – 8810 Cullen Lane	DR to CS for Tract 1; LO for Tract 2	To Grant CS-CO for Tract 1; LO-CO for Tract 2, with LO-CO being a 40' wide landscaped buffer and a 6' solid fence along the west property line; CS-CO for list of prohibited uses; 30' height limit; 2,000 trips; rollback to W/LO if construction sales & service use is a permitted use in that district; r-o-w dedication on Cullen Lane (approximately 5').	Approved CS-CO for Tract 1; LO-CO for Tract 2 as Commission recommended (9-30-99).
C14-98-0226 – 8908 Cullen Lane	I-RR to CS-CO	To Grant LO-CO	Approved CS-CO for Tract 1 and LO-CO for Tract 2 with LO-CO being a 40' wide landscaped buffer and a 6' solid fence along the west property line; CS-CO for list of prohibited uses; 30' height limit; 2,000 trips; rollback to W/LO if construction sales & service use is a permitted use in that district; r-o-w dedication on Cullen Lane (approximately 5') (10-7-99).
C14-96-0015 – 9100 Cullen Lane	I-RR to GR; CS-1	To Grant CS-1-CO for Tract 1; GR-CO for Tract 2, with CO for 2,000 trips	Approved CS-1-CO for Tract 1; GR-CO for Tract 2 as recommended by Commission (4-25-96).

RELATED CASES:

This property was annexed into the Full-Purpose Jurisdiction on December 31, 1996.

The zoning area is platted as Lot 6, Block A of the Tom F. Dunnahoo Subdivision. An adjacent, undeveloped, triangular-shaped lot that accesses Slaughter Lane is also being considered for a zoning change to GR (C14-06-0204 – Slaughter Zoning).

ABUTTING STREETS:

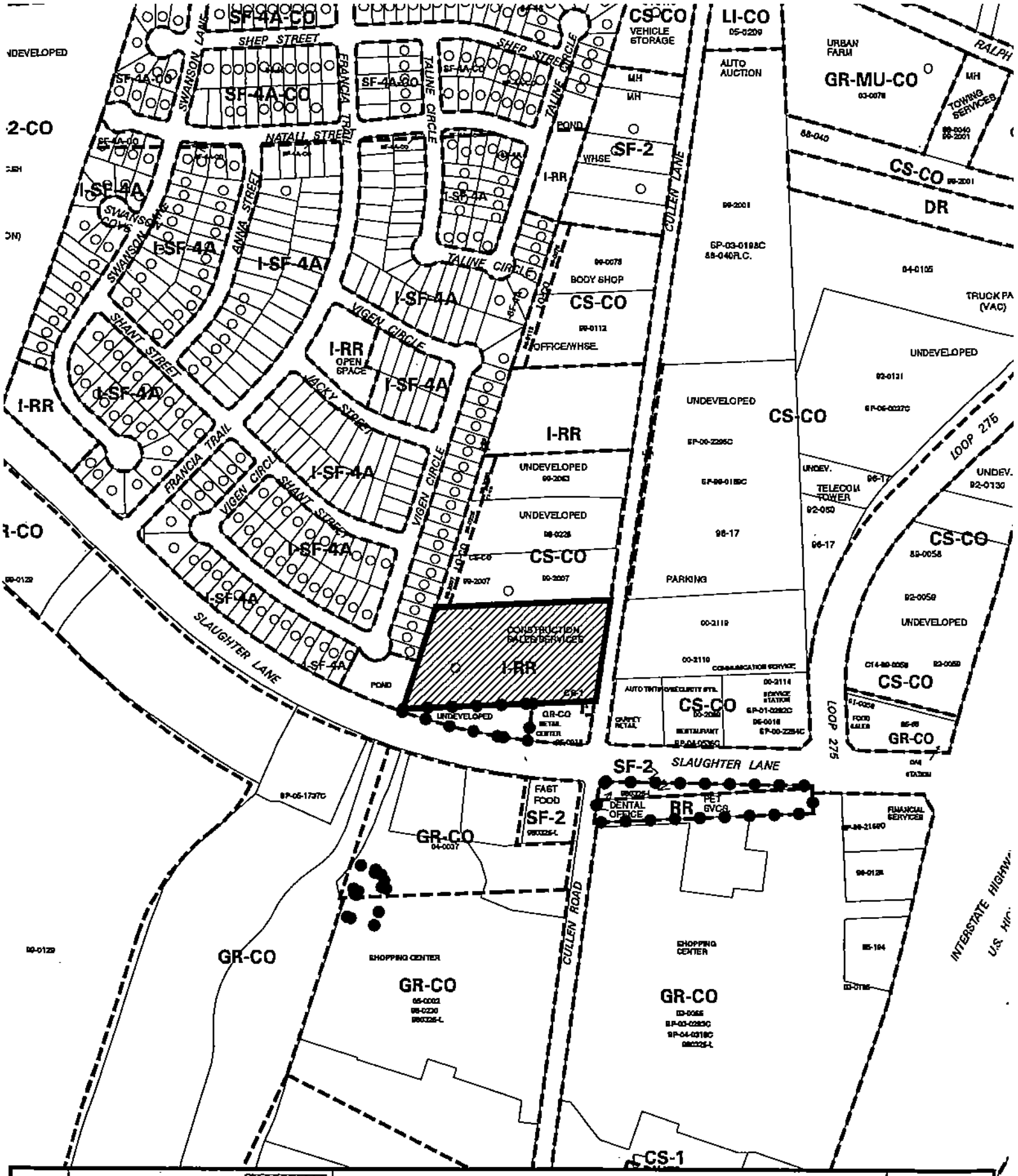
NAME	ROW	PAVEMENT	CLASSIFICATION	BICYCLE PLAN	CAPITAL METRO	SIDEWALKS
Slaughter Lane	120 feet	2 @ 30 feet	Arterial	Yes	No	Yes
Cullen Lane	50 feet - 60 feet	24 feet	Collector	Yes	No	No

CITY COUNCIL DATE: April 5, 2007 **ACTION:**

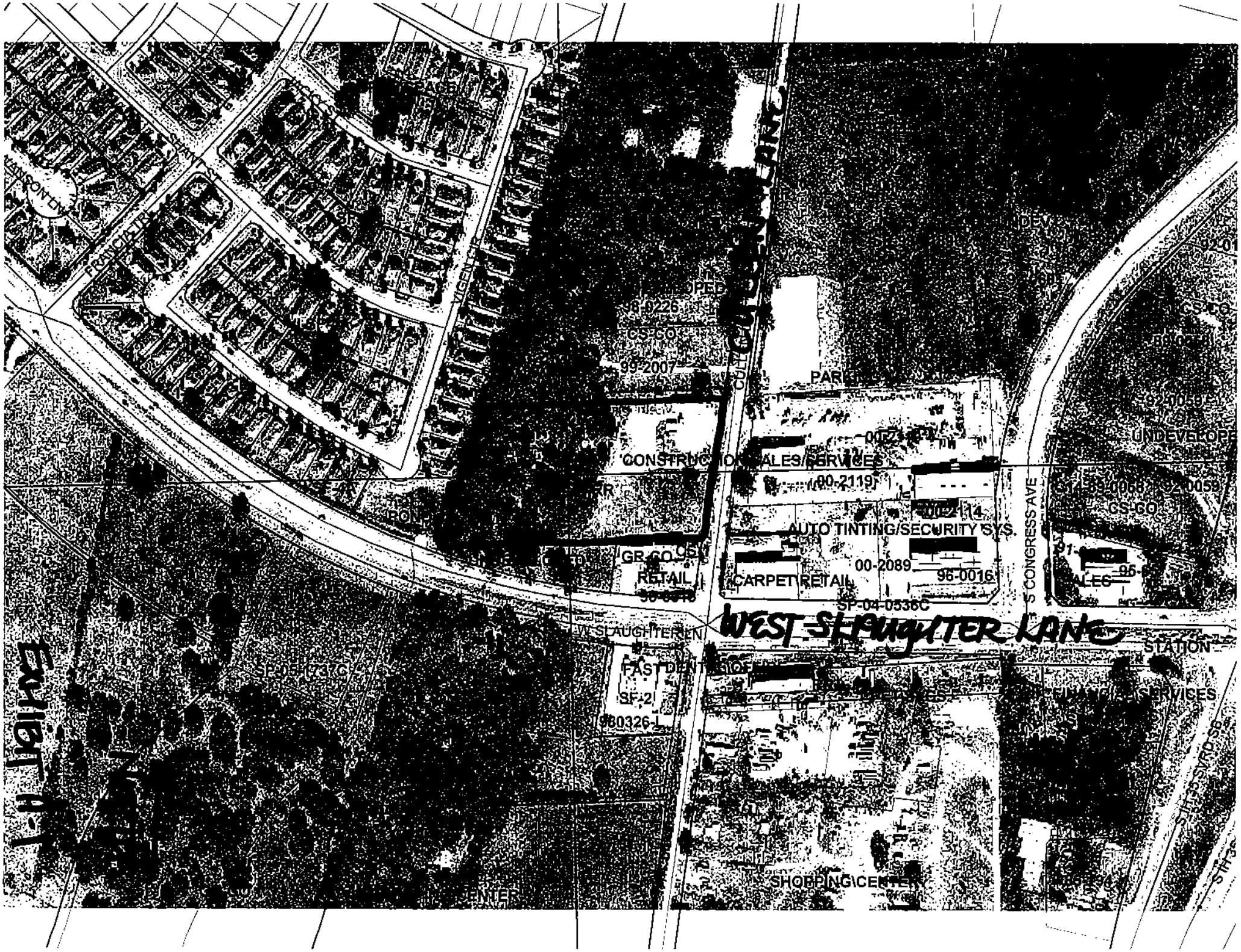
ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Wendy Walsh **PHONE:** 974-7719
e-mail: wendy.walsh@ci.austin.tx.us



N 1"=400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: W.WALSH	ZONING EXHIBIT A CASE #: C14-06-0203 ADDRESS: 9006 CULLEN LN SUBJECT AREA (acres): 4.800	DATE: 06-11 INTLS: SM	CITY GRID REFERENCE NUMBER F13



WEST SLAUGHTER LANE
CONSTRUCTION SALES/SERVICES
AUTO TINTING/SECURITY SYS.
CARPET RETAIL
RETAIL
S CONGRESS AVE
UNDEVELOPE
STATION
SHOPPING CENTER
CS-CO
99-2007
00-2119
00-2114
00-2089
96-0016
SP-04-0536C
SF-2
980326-L

EXHIBIT A-1

B. Fully Shielded and Full Cut-off Light Fixtures Required

The following outdoor lighting applications shall be illuminated by fixtures that are both fully-shielded and full cut-off: (See Figure 42.)

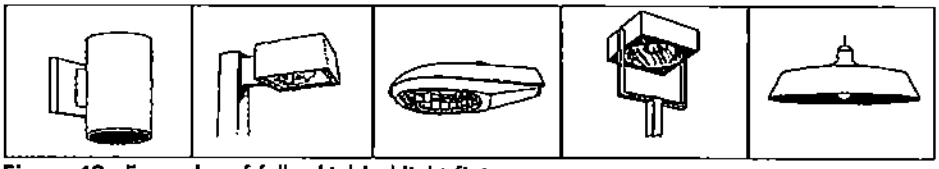


Figure 42: Examples of fully-shielded light fixtures

1. Public street and pedestrian lighting;
2. Parking lots;
3. Pathways;
4. Recreational areas;
5. Billboards;
6. Product display area lighting; and
7. Building overhangs and open canopies.

C. Lighting of Building Façades

1. Buildings and structures shall be illuminated by fixtures that are both fully-shielded and full cut-off. Building façade lighting may only be used to highlight specific architectural features such as principal entrances and towers. This provision shall not apply to buildings in the downtown that are at least 120 feet tall, so long as such buildings contain no trademarked design features (not including signage) located over 120 feet above ground level.
2. Uniform floodlighting of building facades shall be permitted only through the alternative equivalent compliance review process.

D. Directional Luminaires

Directional luminaires may be used to illuminate signs and flagpoles. Such luminaires shall be installed and aimed so that they illuminate only the specific object or area and do not shine directly onto neighboring properties, roadways, or distribute excessive light skyward.

E. Lamp or Fixture Substitution

Should any outdoor light fixture or the type of light source therein be changed after site plan or building plan approval has been granted, a change request must

ATTACHMENT A

be submitted to the Director for approval, together with adequate information to assure compliance with this Subchapter, which must be received prior to substitution.

F. Non-Conforming Lighting

All outdoor lighting fixtures lawfully installed prior to and operable on the effective date of this Subchapter are exempt from all requirements of this Subchapter until January 1, 2015, at which time they shall become subject to this Subchapter, and shall be considered non-conforming if they do not comply with the requirements of this Subchapter.

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CHAPTER 9-2. NOISE AND AMPLIFIED SOUND.

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§ 9-2-1 Definitions

§ 9-2-2 Applicability

§ 9-2-3 General Restrictions

§ 9-2-4 Restriction on Decibel Level

§ 9-2-5 Restriction on Use of Sound Equipment in a Residential Area

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§ 9-2-11 Permit Required

§ 9-2-12 Permit for an Outdoor Music Venue

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§ 9-2-14 Permit for Other Property

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§ 9-2-21 Application Procedure

§ 9-2-22 Restrictions on Permit

§ 9-2-23 Permit Issuance

§ 9-2-24 Duration of Permit

§ 9-2-25 Appeal of Denial of Permit Application

ARTICLE 4. PENALTIES AND ENFORCEMENT.

§ 9-2-31 Offenses

ATTACHMENT B

§ 9-2-32 Denial of Permit for Repeated Offenses

§ 9-2-33 Enforcement Policies

ARTICLE 1. GENERAL PROVISIONS.

§ 9-2-1 DEFINITIONS.

In this chapter:

(1) DECIBEL means sound pressure level as measured by a sound level meter using the "A" weighting network and the slow meter response as specified by the American National Standards Institute.

(2) DIRECTOR means the director of the Watershed Protection and Development Review Department.

(3) NOISE means sound which:

(a) is louder than that permitted in this chapter, or

(b) disturbs a reasonable person of normal sensibilities.

(4) OUTDOOR MUSIC VENUE means a commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof.

(5) SIXTH STREET DISTRICT means the area:

(a) that begins at the intersection of IH-35 and Fifth Street (East);

(b) north along IH-35 to the intersection of Seventh Street (East);

(c) west along Seventh Street (East) to Congress Avenue;

(d) south along Congress Avenue to Fifth Street (East);

(e) east along Fifth Street (East) to IH-35, the place of beginning.

(6) SOUND EQUIPMENT means a loud speaker, public address system, amplification system, or other sound producing device.

(7) WAREHOUSE DISTRICT means the area:

(a) that begins at the intersection of Congress Avenue and Cesar Chavez Street;

(b) north along Congress Avenue to Fifth Street (West);

(c) west along Fifth Street (West) to Guadalupe Street;

(d) south along Guadalupe Street to Cesar Chavez Street; and

(e) east along Cesar Chavez Street to Congress Avenue, the place of beginning.

Source: 1992 Code Section 10-5-1; Ord. 031023-13; Ord. 031211-11.

§ 9-2-2 APPLICABILITY.

(A) This chapter does not apply to:

(1) an employee of a governmental entity engaged in the employee's official duty;

(2) a person at a stadium or ball-park during a sports event;

(3) a person at an authorized parade or street event;

(4) a person operating a bell for a religious activity;

(5) a person operating an emergency vehicle; or

(6) a person operating an audible warning device on a vehicle or train as required by state law.

(B) This article does not apply to a person issued a permit that authorizes the use of sound equipment.

Source: 1992 Code Section 10-5-2; Ord. 031023-13; Ord. 031211-11.

§ 9-2-3 GENERAL RESTRICTIONS.

A person may not:

(1) make noise or use sound equipment in public between 10:30 p.m. and 7:00 a.m.;

(2) use or permit the use of sound equipment at a business in excess of the decibel limits prescribed by this chapter;

(3) make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.;

(4) operate a machine that separates, gathers, grades, loads, or unloads sand, rock, or gravel within 600 feet of a residence, church, hospital, hotel, or motel between 7:00 p.m. and 6:00 a.m.; or

(5) operate sound equipment in a vehicle audible or causing a vibration 30 feet from the equipment.

Source: 1992 Code Section 10-5-3; Ord. 031023-13; Ord. 031211-11.

§ 9-2-4 RESTRICTION ON DECIBEL LEVEL.

A person may not operate sound equipment at a business that produces sound:

(1) in excess of 85 decibels between 10:00 a.m. and 2:00 a.m., as measured at the property line of the business; or

(2) is audible at the property line of the business between 2:00 a.m. and 10:00 a.m.

Source: 1992 Code Section 10-5-4; Ord. 031023-13; Ord. 031211-11.

§ 9-2-5 RESTRICTION ON USE OF SOUND EQUIPMENT IN A RESIDENTIAL AREA.

(A) This section applies to property zoned as residential under Section 25-2-32(B) (*Zoning Districts and Map Codes*).

(B) A person may not use sound equipment that produces sound audible beyond the property line of a residence in a residential area between 10:00 p.m. and 10:00 a.m.

(C) A person may not use sound equipment audible beyond the property line of a residence in a residential area that produces sound in excess of 75 decibels.

Source: 1992 Code Section 10-5-5; Ord. 031023-13; Ord. 031211-11.

ARTICLE 2. PERMIT REQUIREMENTS.

§ 9-2-11 PERMIT REQUIRED.

A person must obtain a permit to operate sound equipment audible to the public as prescribed by this article, Chapter 8-1, Article 4 (*Restrictions on Amplified Sound*), and Section 14-8-34

SUMMARY STAFF RECOMMENDATION *(As of March 1, 2007):*

Please refer to Issues section, beginning on Page 2 of the Staff report.

SUMMARY STAFF RECOMMENDATION *(Prior to February 28, 2007):*

The Staff's recommendation is to grant community commercial (GR-CO) combining district zoning with conditions. The Conditional Overlay:

1. Provides a 40-foot wide undisturbed, vegetative buffer along the west property line where adjacent to or within 50 feet of single family residences;
2. Provides a 25-foot wide undisturbed vegetative buffer where adjacent to a detention pond;
3. Prohibits a dumpster or loading facility within 100 feet of a property used as a single family residence;
4. Prohibits the following uses: automotive rentals; automotive repair services; automotive sales; automotive washing (of any type); bail bond services; bed and breakfast residential (groups 1 and 2); club or lodge; commercial off-street parking; drop-off recycling collection facility; exterminating services; funeral services; hotel-motel; indoor entertainment; indoor sports and recreation; off-site accessory parking; outdoor entertainment; outdoor sports and recreation; pawn shop services; residential treatment; restaurant (general); restaurant (limited); service station; theater; and urban farm;
5. Limits height to 35 feet; and
6. Limits the number of daily trips to 2,000.

If the requested zoning is recommended for this site, then:
1) If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Cullen Lane in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site.

2) Posting of fiscal surety is required to accommodate additional turning lane movements at the intersection of Cullen and Slaughter Lanes.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

The proposed GR, Community Commercial district is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major trafficways. The property has access to Cullen Lane, a collector street.

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

Based on the conditional overlay that accounts for fencing, buffering and prohibited uses similar to previous cases on Cullen Lane, the Staff recommends the Applicant's request for GR zoning provided improvements to Cullen Lane are established. As Cullen Lane is considered a collector street in substandard condition, the Staff is also recommending additional right-of-way on Cullen Lane as well as improvements to turning lane movements at the intersection of Slaughter and Cullen Lanes. The additional right-of-way and improvements will facilitate traffic flow associated with retail uses.
As Cullen Lane is considered a collector street in substandard condition, the Staff is also recommending additional right-of-way on Cullen Lane as well as improvements to turning lane movements at the intersection of Slaughter and Cullen Lanes. The additional right-of-way and improvements will facilitate traffic flow associated with commercial uses.

EXISTING CONDITIONS

Site Characteristics

The subject property contains a single family residence and a construction sales and service business with modest vegetative coverage along the western portion. It gradually slopes to the southeast and there appear to be no significant topographical constraints on the site.

Impervious Cover

The maximum impervious cover allowed by the GR zoning district is 80%, based on the more restrictive watershed regulations.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site lies principally in the Onion Creek Watershed of the Colorado River Basin, though some of the site may also drain to the Slaughter Creek Watershed as well. Both are classified as a Suburban Watersheds by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

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

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

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

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

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

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

Transportation

The trip generation under the requested zoning is estimated to be 10,969 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Water and Wastewater

There is a 6-inch water main and a 10-inch wastewater line on Cullen Lane.

The landowner intends to serve the site with City of Austin water and wastewater utility service. The landowner, at his own expense will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, utility adjustments, and relocation. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility construction must be inspected b the City. The landowner must pay the associated and applicable City fees.

Compatibility Standards

The site is subject to compatibility standards. Along the west property line, the following standards apply:

· No structure may be built within 25 feet of the property line.

· No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.

· No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
· A landscape area along the north and east property line is required. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

Walsh, Wendy

From: Hambright, Susan [Susan.Hambright@dlapiper.com]

Sent: Friday, February 02, 2007 1:25 PM

To: bbaker@austintexas.org; kbjackson@pbsj.com; chammond1@austin.rr.com; josephamartinez@yahoo.com; jay@jaygohilrealty.com; info@swhconsulting.com; Pinnelli@flash.net; shieh1@aol.com

Cc: James_Hannaman@amat.com; Gloria Meraz; Pam Highsmith; Jeanne Baert; wendyworth2002@aol.com; Walsh, Wendy; Rusthoven, Jerry; austinsus@netscape.com

Subject: Zoning Hearing Items C-14-06-0203 and 0204- Cullen/Slaughter Development

Attachments: RC between Park Ridge and Retail Pad sites Park Ridge Comments 02 02 07.DOC

Dear Madam Chair and Commissioners:

On Tuesday, February 6, the above-referenced items will come before you for rezoning consideration. We would like to ask that you take into consideration that this property directly adjoins the Park Ridge neighborhood, and as such any development has the potential to take away the covenant and our right to quiet enjoyment of our property and our homes. We are working with the developer, Mr. Rich Flaten of Dallas, to come to a mutually acceptable agreement in the form of a restrictive covenant that would give our neighborhood some safeguards from this development. I am attaching a copy of that document for your review. To date, the developer has not agreed to this document, and has stricken most of the items that would offer us most protection. We believe it is appropriate that a minimum 75' landscaped buffer be put in place, and that the hours of operation of any businesses in the development be restricted. We also believe that either NO or LO zoning would be much more appropriate for this property than GR, and ask that you consider this before granting GR zoning.

If you would like to discuss this before the hearing on Tuesday, we would be very happy to meet at your convenience.

Please let me know if you have any questions, and thank you very much for your attention to this matter.

Sincerely,

Susan Hambright
Park Ridge Owners' Association, Inc.
Board President

DLA PIPER

Susan Hambright
Assistant to Jim Montgomery, Joe Ford and Patrick Maroney

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Austin, Texas 78746

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February 19, 2007

Zoning and Platting Commission
City of Austin
Zoning Case No. C-14-06-0203 and No. C-14-06-0204

Dear Commissioners,

On behalf of the Park Ridge Owner's Association (Park Ridge), I would like to update you on our negotiations with the Applicant's representatives in the above mentioned case. On February 6, 2006, the Zoning and Platting Commission directed both parties, Park Ridge and the Applicant, to enter into mediation to address ongoing issues concerning the Applicant's zoning request.

Although the neighborhood had requested a zoning category consistent with a development adjacent to our neighborhood (i.e., GO), the Zoning staff recommended the much higher GR zoning level. Rather than to protest wholesale the staff recommendation, Park Ridge has committed to working with the Applicant on the GR zoning. After making this concession, most of the ongoing issues we have now are included as part of the working drafts of the "Declaration of Restrictive Covenants" from both parties.

These issues (which were delineated in the Park Ridge "Declaration of Restrictive Covenants" submitted to the Zoning Commission on for the February 6 meeting) included:

1. Restricted uses on the subject property and hours of operation

While Park Ridge requested that food sales and financial services be added to the list of restricted uses already in concert between the Applicant and Park Ridge, **Park Ridge accepts the Applicant's request** to allow both uses (i.e., exclude them from the list of restricted uses) with the expectation that, through the "Declaration of Restrictive Uses," the Applicant agrees to hours of operation compatible with an adjacent residential area (see "Hours of Operation" below), the exclusion of pay day loan services, and adheres to the previously agreed upon limitation of 2,000 trips per property.

Hours of Operation. Given the proximity of the property to our residences, Park Ridge maintains strongly that hours of operation must be delineated in a "Declaration of Restrictive Covenants." **While our strong preference has been to restrict business hours on evenings and Sundays, we have proposed to the Applicant an extended list of hours, including Sunday business hours. We have not yet heard back from the Applicant.**

To Park Ridge home owners, preventing 24-hours business operations is essential. We cannot exercise our right to a peaceable home environment with a fully functioning business in operation around the clock—literally in our backyards. Neighborhood children sleep in rooms facing that proposed development.

2. Buffer zone adjacent to the residential subdivision (Western property line)

While Park Ridge requested an undisturbed vegetative buffer zone of 75 feet (commiserate with the very extensive development and noise level around the property), the Applicant offered an undisturbed vegetative buffer zone with 50 feet of any homes and a 25 foot buffer behind (to the east of) the detention pond within the Park Ridge boundaries (starting a minimum of 50 feet from the nearest home). **Park Ridge agrees to the Applicant's proposal, which includes maintaining the buffer as a dense vegetative buffer.**

3. Hours of construction

Park Ridge agrees to the Applicant's language, as per city code.

4. Location of dumpsters on the subject property

Given the proximity of homes, Park Ridge offered the Applicant language which essentially allows dumpsters to be placed anywhere on the eastern half of the properties. We have not yet heard back from the applicant. **The parties have agreed to the acceptable hours of trash and rubbish removal. No trash can be removed from 9:00 pm to 7:00 am.**

5. Location of any loading docks

Park Ridge and the Applicant have agreed on the positioning of loading docks to include greater flexibility for the Applicant given that Applicant had originally agreed to delivery hours compatible with a residential area. The original agreement would restrict any deliveries from occurring between 9:00 pm to 7:00 am.

6. Signage

Park Ridge and Applicant agree to requirements under the "scenic roadway" guidelines, which cover Slaughter Lane.

7. Exterior loud speakers

Park Ridge and the Applicant have agreed on several components, although Park Ridge has requested that any loud speakers (relating to a bank drive-through) be located on the eastern side of the development. We have not yet heard back from the developer.

8. Integrated Past Management Plan

Applicant accepted Park Ridge request. In agreement.

9. Temporary storage containers

In agreement.

10. Lighting

The Applicant agreed to conduct further research on some matters. We have not yet heard back, although many of the issues are already agreed upon.

11. Size of business

Park Ridge requested a size limitation of 8,000 per business. The Applicant believes this number does not provide sufficient flexibility. Our concern is the level of activity of larger businesses. In the spirit of cooperation, we asked the Applicant what number was workable. We have not yet received a response. We are willing to work with the Applicant on this matter.

12. Height of building

In agreement.

13. Maximum of 2,000 trips per day per tract

Park Ridge and the Applicant had been in agreement to this condition right up until Friday, Feb. 16, when the Applicant's representative eliminated this clause. Given that we had met with another of the Applicant's representatives on Feb. 12 and were told at that time they wanted to ensure that the Applicant could count 2,000 trips for each of the two tracts (and we agreed), the new change in this issue is significant. **Park Ridge holds that the Applicant should adhere to the original proposal. We have no objection to the Applicant being able to count up to 2,000 trips per tract.** We believe that not designating applicable trips to these tracts can potentially open up the property to businesses that are simply not compatible with a neighborhood.

The Applicant has also requested that, should any disparities arise from the terms of the "Declaration of Restrictive Covenants" and the City's Design Standards, the City's Design Standards prevail. Park Ridge will agree to work with the Applicant should any issue arrive. Further, the Applicant's representative has agreed to research the issues addressed in the "Declaration of Restrictive Covenants" so that the default language is not needed. Park Ridge cannot agree to any default language that might void the spirit of any agreements made through the "Declaration of Restrictive Covenants" and, as such, might nullify our agreements.

Park Ridge has worked in good faith to find a suitable compromise on all issues. As Park Ridge homeowners have accepted all the development (and the noise, traffic, pollution, lighting, and activity it creates) across on Slaughter, we are extremely concerned with the need to protect our homeowners. The proposed development is fundamentally different from any of the other development proposals because the land in question is literally in our backyard. **The protections we seek through the "Declaration of Restrictive Covenants" are a minimum safeguard.**

We thank the Commission for its efforts to ensure a balanced outcome in this matter. With such vast development in progress or in the planning stages around Slaughter, we believe the zoning case for the land adjacent our homes merits particular consideration and safeguards for those families living amidst the proposed businesses.

We are happy to work with the Commission, its staff, and the Applicant to resolve all outstanding matters.

Sincerely,
Susan Hambright
President, Park Ridge Home Owners Association
Gloria Meraz
Homeowner, Park Ridge
Jim Hannaman
Homeowner, Park Ridge

Walsh, Wendy

From: Hambright, Susan [Susan.Hambright@dlapiper.com]

Sent: Monday, March 05, 2007 3:37 PM

To: bbaker@austintexas.org; josephamartinez@yahoo.com; trabago@austin.rr.com

Cc: Richard Suttle, Jr.; Walsh, Wendy; Amanda Morrow; James_Hannaman@amat.com; gloriam@txla.org

Subject: Mediation Meeting -- Cullen/Slaughter Development

Commissioners:

Thank you so much for taking time out of your busy schedules to meet last Wednesday with Applicant and members of Park Ridge concerning the proposed development at Cullen and Slaughter. I believe the meeting was very successful. You should have received or will soon receive the Staff Report from Wendy Walsh which notes that Park Ridge has asked for clarification as to the 24-hour restriction on part of the property. After the meeting, it occurred to us that, while I believe we all know the intent of the restriction, the language itself could be misconstrued as to the actual intent. Park Ridge has suggested adding the language that any businesses located within the said 200 feet be closed between the hours of 10:30pm and 7:00am. We are certainly open to other suggestions.

Park Ridge is in no way attempting to renegotiate the agreements that were reached with Applicant, but simply to clarify them.

Thank you again. Your guidance and input is very much appreciated.

Respectfully,

Susan Hambright, President
Park Ridge Owners Association, Inc.

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Thank you.