

CITY COUNCIL
CONDITIONAL USE SITE PLAN REVIEW SHEET
APPEAL OF A PLANNING COMMISSION DECISION

CASE NUMBER: SPC-05-0027A (Revision 1) **COUNCIL DATE:** 03/22/07

ADDRESS: 1109 E 52ND St.

WATERSHED: Tannehill Branch (Urban)

AREA: .5 Acres

EXISTING ZONING: CS-CO/ Ordinance #010405-11. Conditional Overlays: Some uses of the property prohibited and traffic may not exceed 2,000 trips per day. Applicant is in compliance with these restrictions.

BOARD AND COMMISSION ACTION: Conditional Use Permit approved by Planning Commission on 1-30-07 (8-1). Parking variance denied by Board of Adjustment on 1-9-07 and 2-13-07.

APPEAL REQUEST: Filed by Nicki Mebane and Walter Olenick, owners of neighboring properties, on 02/09/07.

PROJECT NAME: Encore House

PROPOSED USE: The applicant is requesting a revision to a conditional use permit for Transitional Housing on a 0.5 acre tract, to increase the number of beds from 35 to 58. This revision is for a site plan that is a Part "A", land use element only, no site development will occur.

APPLICANT: Eugene Mees
1109 E 52nd St.
Austin, TX 78723

AGENT: Clark, Thomas, & Winters, PC
John M Joseph, Jr.
300 W 6th St., 15th Floor
Austin, TX 78701

NEIGHBORHOOD ORGANIZATION:

174—Windsor Park Neighborhood Association
511—Austin Neighborhoods Council
603—Mueller Neighborhoods Coalition
700—Keep the Land
742—Austin Independent School District
776—Mueller Master Community, Inc
785—University Hills/Windsor Park NPA Staff Liaison
786—Home Builders Association of Greater Austin
937—Taking Action, Inc
972—PODER People Organized in Defense of Earth & Her Resources
981—Anberly Airport Association

AREA STUDY: Windsor Park (in progress)
APPLICABLE WATERSHED ORDINANCE: Urban
CAPITOL VIEW: Not in View Corridor
T.I.A.: Not Required

SUMMARY STAFF RECOMMENDATION: Staff does not recommend approval of this Conditional Use Permit because the site does not have adequate parking.

CASE MANAGER: Donna Cerkam

PHONE: 974-2733

E-MAIL: donna.cerkam@ci.austin.tx.us

PROJECT INFORMATION:

LEGAL DESCRIPTION: Ridgetop Gardens, Lot A, Resub of a Portion of Lots 1 & 2

EXIST. ZONING: CS-CO

MAX. BLDG. CVRG ALLOWED: 95%

PROPOSED BLDG. CVRG: 8,833 sq. ft. (40.61%)

MAX. IMP. CVRG: 95%

PROPOSED IMP. CVRG: 12,947 sq. ft.
(59.45%)

MAX HEIGHT ALLOWED: 60'

PROPOSED HEIGHT: 10' (1 story)

REQUIRED PARKING: 18

PROVIDED PARKING: 10

SUMMARY COMMENTS ON SITE PLAN:

Land Use: The applicant is requesting a revision to a current conditional use permit for transitional housing to increase the number of beds from 35 to 58. Transitional Housing is a conditional use in CS zoning. The applicant has an approved conditional use permit for 35 beds. The proposed development is within the Desired Development Zone (DDZ). The project has 9 standard spaces and 1 handicap space in the parking lot. The existing transitional housing is more than 250 feet from the existing single-family residences to the East of the property (zoned GR and MF-3 along 51st Street). In addition, there is a building on the adjacent property screening this use from the closest Single-Family residence. There is an SF-3 zoned property adjacent to the South property line, but it is part of the retail property used as Plumbing supply. This site complies with compatibility standards; it is surrounded by a 6-foot fence. The site plan will comply with all other requirements of the Land Development Code, except parking.

Environmental: This site is located in the Tannehill Branch Watershed, which is classified as an urban watershed. It is within the desired development zone. No critical environmental features or water quality zones are affected by this project.

Transportation: The applicant requested a variance from the Board of Adjustment to reduce the required parking from 18 to ten. The variance request was denied. The applicant's request for a reconsideration by the Board of Adjustment was heard February 12, 2007 and was again denied.

SURROUNDING CONDITIONS:**Zoning/ Land Use**

North: E 52nd St., then CS—Liquor Store & Lounge
East: GR—Restaurant Supply, then MF-2—Apartments
South: CS-1 & SF-3—Plumbing Supply
West: CS—Veterinarian Office

<u>Street</u>	<u>R.O.W.</u>	<u>Surfacing</u>	<u>Classification</u>
E 52 nd St	Varies	30'	Collector

CONDITIONAL USE PERMIT REVIEW AND EVALUATION CRITERIA

The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states:

A. "The Land Use Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

B. A conditional use site plan must:

- 1. Comply with the requirements of this title;** Staff response: This site plan complies with all regulations and requirements of the Land Development Code, except parking.
- 2. Comply with the objectives and purposes of the zoning district;** Staff response: This application complies with the objectives and purposes of the zoning district. The transitional housing is an integral part of the development.
- 3. Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;** Staff Response: The site plan will comply with all requirements of the zoning district. In addition, the site plan complies with building setback, height, and compatibility screening requirements with compatibility standards.
- 4. Provide adequate and convenient off-street parking and loading facilities;** The requirement is one space for each 2 employees and 1 space for each 4 beds, for a total of 18 spaces. The number of spaces provided is 10. The applicant requested a variance from the Board of Adjustment to reduce the parking requirement from 18 to 10. The variance request was denied. The applicant is requesting a reconsideration from the Board of Adjustment, to be heard February 12, 2007.
- 5. Reasonably protect persons and property from erosion, flood, fire, noises, glare, and similar adverse effects;** Staff response: All on-site development is existing. The site plan will comply with requirements of the Land Development Code including Compatibility Standards, and reasonably protects the health, safety, and welfare of persons and property.
- 6. For conditional use located within the East Austin Overlay district, comply with the goals and objectives of a neighborhood plan adopted by the City Council for the**

area in which the use is proposed. Staff response: The proposed project is not in the East Austin Overlay. It is in the Windsor Park Neighborhood Plan, which is in progress.

A Conditional Use Site Plan May Not:

1. **More adversely affect an adjoining site than would a permitted use;** Staff response: The site plan will conform with all regulations and standards established by the Land Development Code, except parking. This proposed revision to the site plan does not more adversely affect an adjoining site than would a permitted use. The applicant is pursuing an off-site parking site plan. However, it has not been reviewed or approved by staff.
2. **Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;** Staff response: The site plan does not appear to adversely affect the safety and convenience or vehicular and pedestrian circulation.
3. **Adversely affects an adjacent property or traffic control through the location, lighting, or type of signs;** Staff response: No signage or lighting is proposed that would affect adjacent properties or traffic control.
- D. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.



City of Austin Watershed Protection and Development Review Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

SITE PLAN APPEAL

2007 FEB 12 AM 09:07:29

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) 974-2680.

CASE NO. SPC-OS-0027A
 PROJECT NAME ENCORE HOUSE
REVISION 1
 PROJECT ADDRESS 1109 E. 52ND ST

DATE APPEAL FILED 2/9/2007
 YOUR NAME NICKI MEBANE
 SIGNATURE Nicki Mebane
 YOUR ADDRESS 1110 E. 52ND ST

APPLICANT'S NAME EUGENE MEES
 CITY CONTACT DONNA CERKAN
SUE WELCH

YOUR PHONE NO. (512) 947-6507 WORK
(512) 407-9647 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
- ☒ I communicated my interest by speaking at the Land Use Commission public hearing on (date) 1/30/07.
- ☐ 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.
- ☒ 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
- ☐ Replacement site plan
- ☒ Land Use Commission Approval/Disapproval of a Site Plan
- ☐ Waiver or Extension
- ☐ Planned Unit Development (PUD) Revision
- ☐ Other: _____

Date of Decision: _____
 Date of Decision: _____
 Date of Decision: 1/30/07
 Date of Decision: _____
 Date of Decision: _____
 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 not comply with applicable requirements of the Land Development Code:

PROPOSED USE IS NOT IN BEST INTEREST OF NEIGHBORHOOD.

(Attach additional page if necessary.)

Applicable Code Section: _____



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CASE NO. SPC-05-0027A
PROJECT NAME Encore House
Revision 1
PROJECT ADDRESS 1109 E. 52 ST.

DATE APPEAL FILED 9 Feb 2007
YOUR NAME Walter Olenick
SIGNATURE Walter Olenick
YOUR ADDRESS 1205 E. 52 ST.

APPLICANT'S NAME Eugene Mees
CITY CONTACT Donna Carkan
Sue Welch

YOUR PHONE NO. () 371-3786 WORK
() same 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
- ☒ I communicated my interest by speaking at the Land Use Commission public hearing on (date) 1/20/07
- ☐ 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.
- ☒ I am the record owner of property within 500 feet of the subject site.
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- ☐ Replacement site plan
- ☒ Land Use Commission Approval/Disapproval of a Site Plan
- ☐ Waiver or Extension
- ☐ Planned Unit Development (PUD) Revision
- ☐ Other: _____

Date of Decision: _____
Date of Decision: _____
Date of Decision: 30 Jan 2007
Date of Decision: _____
Date of Decision: _____
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 not comply with applicable requirements of the Land Development Code:

Proposed use will create a negative impact on the neighborhood.

(Attach additional page if necessary.)

Applicable Code Section: _____



PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. 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.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a 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.

Case Number: SPC-05-0027A

Contact: Donna Cerkan, 512-974-2733

Public Hearing:

January 16, 2007 Planning Commission

CHRIS PETROPOULLOS

Your Name (please print)

☐ I am in favor
☒ I object

5201 CAMERON (CHRIS LIQUOR)

Your address(es) affected by this application

OLQ R

Signature

1 12 07

Date

Comments: WITH PAST PROBLEMS OF
RESIDENTS HANGING AROUND, BUYING
LIQUOR AND BEER, DUMPING TRASH
AND CREATING A NUISANCE.
INCREASING NUMBER OF
RESIDENTS WOULD ONLY
ADD TO PROBLEM.

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

City of Austin

Watershed Protection and Development Review Department

Donna Cerkan

P. O. Box 1088

Austin, TX 78767-8810

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 - appearing and speaking for the record at the public hearing;
- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 - is the record owner of property within 500 feet of the subject property or proposed development; or
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Case Number: SPC-05-0027A

Contact: Donna Cerkan, 512-974-2733

Public Hearing:

January 16, 2007 Planning Commission

Citris Petropoulos
Your Name (please print)

☐ I am in favor
☒ I object

5203 Cameron Rd
Your address(es) affected by this application

[Signature]

Signature

1 12 07

Date

Comments: THE AREA FOR REST HOME IS
NOT SUITABLE FOR TRANSITIONAL
HOUSING AS IT IS NEW TO A
BAR & LIQUOR STORE & THEREFOR
IT SHOULDN'T BE THERE IN THE
FIRST PLACE. THIS IS NOT THE
PLACE FOR PEOPLE WITH THESE
DISABILITIES

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

City of Austin

Watershed Protection and Development Review Department

Donna Cerkan

P. O. Box 1088

Austin, TX 78767-8810

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- and:
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Case Number: SPC-05-0027A

Contact: Donna Cerkar, 512-974-2733

Public Hearing:

January 16, 2007 Planning Commission

REUBEN KOGUT

Your Name (please print)

☐ I am in favor
☒ I object

1122 E. 51st (NEXT DOOR)

Your address(es) affected by this application

Reuben Kogut

Signature

1-12-07

Date

Comments: (1) CONSTRUCTION ON THAT PROPERTY HAS ALREADY BEGUN. IS THAT LEGAL? (2) I AM OUT OF TOWN, RETURNING ON 1/12 ~~PLEASE~~ PLEASE POSTPONE THIS HEARING - IT IS SHORT NOTICE. (3) PARKING ON 52nd ST. IS ALREADY VERY LIMITED - IF THIS PROJECT IS ALLOWED TO GO FORWARD, PEOPLE WILL WANT TO PARK ON OUR PROPERTY.

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

City of Austin

Watershed Protection and Development Review Department

Donna Cerkar

P. O. Box 1088

Austin, TX 78767-8810

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☒ FOR *with reservations*
☐ AGAINST
☐ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☐ YES
☐ NO

Name (Please PRINT)

C Ruth Marie

Address

*2103-B Wheeler Ln
78123*

Email

[Redacted]

Phone

731-4271

Date

1/30/07

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☐ FOR
☐ AGAINST
☒ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☒ YES
☐ NO

Name (Please PRINT)

RICK KRIVONIAK

Address

*2003 DELWOOD CT
AUSTIN TX 78723*

Email

[Redacted]

Phone

926-0733

Date

1-30-07

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☐ FOR
☐ AGAINST
☒ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☒ YES
☐ NO

Name (Please PRINT)

Meg Brooks

Address

*6207 Peggy St.
Austin TX 78723*

Email

[Redacted]

Phone

933-1888

Date

1-30-07

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☐ FOR
☒ AGAINST
☐ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☒ YES
☐ NO

Name (Please PRINT)

BOB MEBANE

Address

700 PARK BLVD

Email

Phone

407-9647

Date

1-30-07

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☐ FOR
☒ AGAINST
☐ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☒ YES
☐ NO

Name (Please PRINT)

Walter Olenick

Address

1205 F.50 ST.

Email

Phone

371-3786

Date

30 Jan 2007

Comment Card

PLANNING COMMISSION



Agenda Item #: 27

Please indicate your position on this item:

- ☐ FOR
☒ AGAINST
☐ NEUTRAL / UNDECIDED

Do you wish to speak on this item?

- ☒ YES
☐ NO

Name (Please PRINT)

NICKI MEBANE

Address

700 PARK BLVD

Email

Phone

407-9647

Date

1-30-07

Cerkan, Donna

From: Meg Brooks ~~(Meg Brooks - Cerkan, Donna)~~
Sent: Tuesday, January 30, 2007 11:02 AM
To: Cerkan, Donna
Subject: Item 27 on tonight's agenda

Encore House/Bannum 1109 E. 52nd St.

My name is Meg Brooks and I am the Secretary for the Windsor Park Neighborhood Association. I am also an Assistant District Attorney so I have some knowledge of the possible problems of bringing large numbers of convicted criminals into the neighborhood and the difference between the state and federal criminal court systems.

The neighborhood found out about Bannum wanting to buy this property in December and it has taken us some time to get information about Bannum, who they are and how they want to use the property. John Joseph and a representative of Bannum came to our January meeting and answered a lot of our questions. But we did not take a vote of the membership to support or oppose this project. So, I am speaking for myself only.

While no one is happy having a transitional housing facility in the neighborhood and certainly not happy with it possibly being larger, we did agree to this use 5 years ago or so. There was a ministry in the location called Souls Outreach and the woman who ran it and the men who lived there were involved in the neighborhood and we had a relationship with them and to allow them to stay and make enough money to pay the rent, she needed to be able to provide more beds. The neighborhood association voted to increase the number of beds and allow transitional housing.

We have not had much of a relationship with the subsequent manager, Encore House.

The neighborhood would like for this property to not be used for transitional housing after this owner. One of the things we talked to John Joseph about was tying the 58 beds and the transitional housing use to Bannum owning the property and if they sold the property, the transitional housing use would fall off. Mr. Joseph said he thought Bannum would agree to that and he would find out if it could be done.

This appealed to everyone at the meeting in January.

Bannum would be taking over the local contract with the Bureau of Prisons (BOP) so this facility would be used for federal parolees, probationers and those awaiting court (pretrial release). The current contract is held by McCabe House at 1915 MLK.

I have spoken with two APD officers who have patrolled the MLK area for several years and the District Representative officer who covers the area including 1915 MLK and they report no increased criminal or nuisance activity by people living at McCabe House. This seems to be attributable to the strictness of the BOP contract and what they demand of the companies who receive these contracts. I also spoke with a pretrial release employee who talked about what a "tight ship" McCabe House ran. I think the fact that the federal court system is much more strict than the state system, the supervision by the US Marshals, and the strict requirements of the BOP contract, Bannum might have less of an impact on our neighborhood than we worry they would with the increased number of beds.

Bannum also told us that they establish Community Relations Boards for each of their houses and people from the neighborhood would sit on this Board. This is something we have certainly never had with any of the other facilities that have occupied this location.

When the representative from Bannum spoke at our meeting, she showed us a ten page list of rules for the people who come to live at the house.

She also said the BOP comes down and inspects every 90 days. Bannum has contracts in several states. My feeling is that if they mismanage this location, it could affect not only this contract but future contracts they could be seeking from the BOP. They will also be serving people who are returning to Austin and not people from other parts of the state or country.

If we could tie the conditional use permit to this owner and if they do all the community relations promises they have made, I feel that this is a good deal for the neighborhood.

Windsor Park is a very tolerant neighborhood and I think most of us who live there like the diversity and try not to say "NIMBY". We recognize that people coming out of prison need to transition back into the community and a central location

with access to buses is very important.

But with all the investment at the Mueller site and the surrounding apartments (\$3 million is being invested in apartments one block away), I would hate to bring in a use that creates problems. It is my understanding that if Bannum does not get the increase to 58 beds, they will not be buying the location and will not be able to use it for the BOP contract location. I am afraid we could get something worse than what Bannum is asking for.

There are two or three owners of property close to this location who are opposing Bannum and I respect their views. I suspect you will hear from them tonight. You might ask speakers what their interest in the project is or where they live if they don't state it when they introduce themselves. There is a very vocal person opposing the project who does not live in the neighborhood and thinks they should house these people outside of Austin.

I am sorry we did not take a vote and can not present you a unified opinion. And I appreciate your consideration. I will be there tonight if you have any questions of me.

Meg Brooks
6207 Peggy St.
Austin, TX 78723
wk 854-9184
hm 933-1888