

NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHBORHOOD PLAN: Dawson Neighborhood Plan

CASE#: NPA-07-0001.01

PC DATE: March 27, 2007

ADDRESS: 206 – 213 Dunlap Street; 3808, 3811, 3812, 3814, 3902, 3904, & 3906 Wadford Street; and 3907-A Reyna Street.

APPLICANTS: Colonna Family Limited Partnership; Estate of Raul Reyna; James Lacey; KCGR 670 I, LP; Ron & Gwyn Thrower; Alfredo Reyna; Howard Long; Hector Reyna; Cole & Julie Alexander; Charles & Jennifer Moerbe; Gabe & Heather Moerbe; Robert Robbins, Jr.; David Kitching; Sonya Hunter

OWNERS: Colonna Family Limited Partnership; Estate of Raul Reyna; James Lacey; KCGR 670 I, LP; Ron & Gwyn Thrower; Alfredo Reyna; Howard Long; Hector Reyna; Cole & Julie Alexander; Charles & Jennifer Moerbe; Gabe & Heather Moerbe; Robert Robbins, Jr.; David Kitching; Sonya Hunter

AGENT: Ron Thrower – Thrower Design

TYPE OF AMENDMENT:

Change in Future Land Use Designation

The proposed amendment would change the land use designation on the Dawson Neighborhood Plan Future Land Use Map for an area in the southeast corner of the neighborhood, adjacent to Ben White Blvd. and one block west of S. Congress Ave., from **Single Family** to **Mixed-Use**. The change in designation will allow for the redevelopment of the subject properties into a mixed-use development.

PLAN ADOPTION DATE: August 27, 1998

NPCD ADOPTION DATE: December 6, 2001 **FLUM ADOPTION DATE:** June 22, 2006

STAFF RECOMMENDATION: Staff supports applicants' proposed plan amendment for 207, 209, 211, and 213 Dunlap Street; 3811, 3902, 3904, & 3906 Wadford Street; and 3907-A Reyna Street. Staff offers an alternative recommendation of **Neighborhood Mixed Use** for 206, 208, 210, and 212 Dunlap Street; and 3808, 3812, and 3814 Wadford Street.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission agreed with staff's recommendation, recommending Mixed Use future land use on Fort Magruder 1 and Fort Magruder 3, and recommending Neighborhood Mixed Use on Fort Magruder 4. Additionally, with support from the applicant, Planning Commission recommended that a note be attached to the Future Land Use Map showing a 75 foot buffer from the existing Single Family parcel abutting Fort Magruder 4 in which no primary commercial uses will be allowed.

ISSUES:

The agent for the applicants is requesting a postponement of this case to October 18th, 2007. The Dawson Neighborhood Plan Team has also requested a postponement. Both postponement requests are attached.

BASIS FOR STAFF RECOMMENDATION:

The applicant is requesting a plan amendment for properties on three separate blocks, which the applicant has labeled Fort Magruder 1, 3, and 4 (see accompanying map for block locations). The following sections detail staff's future land use recommendation for each of these blocks.

Fort Magruder 3

Staff supports a **Mixed Use** designation for all the properties in the block adjacent to Ben White between Wadford and Reyna streets and bordered by Dunlap Street on the north for the following reasons:

- As a result of the reconstruction of Ben White Blvd, the single family properties on this block are now adjacent (or in very close proximity) to a limited access highway. The noise and traffic along Ben White Blvd make these properties no longer suitable for single family use.
- A Mixed Use future land use designation is used on many properties adjacent to Ben White in nearby planning areas (and even in the Dawson neighborhood in one case), making a Mixed Use designation at this location consistent with future land use designations for other areas along Ben White.
- This block is only one block away from Congress Avenue and the various current and future transit routes along this corridor. This proximity to transit makes the location ideal for the higher density residential uses associated with Mixed Use.
- Current and future development along Congress Avenue in this area will be adding more residents to the area and increasing demand for the types of neighborhood-serving commercial uses found in Mixed Use. Such commercial uses in this location would help meet this demand.
- The blocks location adjacent to Ben White would allow for access from Ben White without bringing traffic into the neighborhood.

Fort Magruder 4

Staff offers the alternative recommendation of **Neighborhood Mixed Use** for all the properties in the block bordered by Dunlap Street to the south, Reyna Street to the west and Wadford street to the east for the following reasons:

- Assuming a land use change to Mixed Use for the properties just across Dunlap Street to the south, this block will be facing non-residential uses along much of its perimeter. A Neighborhood Mixed Use land use designation would not be inconsistent with many of the surrounding land uses.
- Because this block abuts single family residential land use to the north and is not directly adjacent to Congress Avenue or Ben White, staff feels that commercial land use in this area should be limited to only low intensity commercial uses and residential densities limited to medium to low density residential use, to protect the residential character of the abutting

properties and interior of the neighborhood. In addition, low intensity mixed use development on this block would act as a buffer between the single-family character of the neighborhood interior and the more intense development along the neighborhood perimeter. For this reason staff is recommending the lower intensity Neighborhood Mixed Use, rather than Mixed Use, for this block.

- Given compatibility and other development requirements, designating Neighborhood Mixed Use on this block would allow for higher density development on the block across Dunlap Street to the south, while at the same time providing a buffer between this higher density development and the interior of the neighborhood.
- With the new commercial design standards that would require commercial development across the street to front Dunlap (or Reyna or Wadford, but these two seem unlikely) rather than Ben White, limited commercial uses on this block fronting Dunlap could complement commercial uses in the block across the street (most likely also fronting on Dunlap), providing for a pedestrian-oriented commercial lane.

Additional Note:

The Dawson Neighborhood Planning Contact Team has voted to oppose a Mixed Use future land use designation for this block. The Contact Team expressed concerns that Mixed Use would be incompatible with the abutting single family property, would attract unwanted traffic to the interior of the neighborhood, and generally represents commercial encroachment into the neighborhood. Staff shares these concerns, but feels that the lower intensity Neighborhood Mixed Use designation helps to address these concerns. In addition, at the zoning level, limiting access points to the development and other similar zoning tools should ensure that this block is developed as a compatible buffer between higher density development on the neighborhood perimeter and low density development in the neighborhood interior.

Fort Magruder 1

Staff supports a **Mixed Use** designation for all the properties in the block bordered by Krebs Street to the north, Dunlap Street to the south, Wadford Street to the west and Congress Avenue to the east for the following reasons:

- This block fronts on Congress Avenue, which has been designated a Core Transit Corridor by the City and therefore appropriate for Mixed Use due to the availability of transit and existing commercial/mixed use nature of the corridor. Most neighborhoods in the area, including Dawson, have designated properties along Congress Avenue as Mixed Use.
- The majority of land uses on this block are non-residential, making single family land use on this block inappropriate.

Comments from the Dawson Neighborhood Plan

One objective of the Dawson Neighborhood Plan is to “Preserve the residential character of the interior of the neighborhood and the commercial character of South First Street and South Congress Avenue.” This objective seems to support Mixed Use designations for those blocks that abut Congress Avenue.

The plan does not specifically mention the areas in the neighborhood immediately adjacent to Ben White Blvd. However, the Plan does state the following two objectives:

- Encourage types of new businesses and building types that are compatible with the neighborhood and its other existing businesses.
- Improve aesthetics along the neighborhood perimeter.

Additionally, on the Dawson Neighborhood Plan's FLUM, most properties abutting Ben White are designated either Mixed Use or Commercial. These objectives and FLUM designations appear to indicate an acceptance of mixed use or commercial land use along Ben White.

Finally, the half-block known as Fort Magruder 4 is not directly adjacent to Ben White, Congress, or First Street and therefore could be considered as subject to the text of the Dawson Neighborhood Plan that states as an objective to "preserve the residential character of the interior of the neighborhood." However, it was staff's opinion that this block should not be considered as an interior block for the following reasons:

- This half-block is surrounded on several sides by blocks that are already primarily non-residential (Fort Magruder 1, the block located at the northwest corner of Ben White and Congress Ave, and the block located immediately west of this area across Reyna Street and along Ben White) or blocks that are currently residential, but more appropriate (in staff's opinion) for Mixed Use development (Fort Magruder 3). Thus this half-block seems to be an area more similar to other commercial areas located on the perimeter of the neighborhood rather than the residential interior.
- Assuming that Fort Magruder 3 is developed as Mixed Use, with a commercial component, and given that current City of Austin commercial design standards require that commercial development always face away from a major highway, if possible, then any future commercial development on Fort Magruder 3 will be facing inward to Dunlap Street (or less likely to either Reyna or Wadford Streets). This means that the current single family homes located on Fort Magruder 4 will be located on a street that is at least half commercial in nature. Staff feels that a street environment that is half commercial is inappropriate for single-family residential land use.
- There are very few instances in the neighborhood where the boundary between commercial and residential lies down the middle of a street, with single family residential on one side of the street and commercial on the other. Rather, the general existing land use pattern for boundaries between commercial and residential land uses in the Dawson neighborhood usually follows along the side or back property line of residential properties, with commercial properties directly adjacent on the other side of the property line. In keeping with this pattern, if the block known as Fort Magruder 3 is developed as Mixed Use (as supported by staff), then staff feels that in this location the appropriate boundary between the residential interior of the neighborhood and the commercial exterior would be the northern property line of Fort Magruder 4, separating this property from the residential property behind it.
- While staff feels that Fort Magruder 4 is appropriate for some commercial development, its proximity to single-family development requires that commercial development on this tract be limited in scale and use to those standards found in lower level zoning categories and that residential development be limited to medium density residential. For this reason staff recommends only the Neighborhood Mixed Use land use designation for Fort Magruder 4.

Additionally, at the zoning level, access points to the development should be limited through a conditional overlay, and any other available zoning tools should be used to ensure that this block is developed compatibly with the adjoining single family property.

BACKGROUND:

The Dawson Neighborhood Plan was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on August 28, 1998. Its associated Neighborhood Plan Combining District rezonings were adopted on December 6, 2001. Since a Future Land Use Map (FLUM) was not done during the original planning process, the neighborhood went through the process of creating a FLUM in 2006. The Dawson Neighborhood FLUM was adopted on June 22, 2006. The boundaries of the planning area are: Ben White Boulevard on the south, South Congress Avenue on the east, South First Street on the west, and West Oltorf Street on the north.

The subject properties were approved with a single family land use designation on the Future Land Use Map in the Dawson Neighborhood Plan. The current land use on these properties is single family. The property owners/applicants wish to amend the FLUM to Mixed Use and eventually rezone the subject properties so that they can then sell their properties as one site for development into a mixed-use project. The applicants have decided not to pursue a rezoning concurrently with the plan amendment to allow for more discussions with the property owners currently not involved in the project (but whose property is located with the proposed project site) and to allow for more discussion concerning appropriate zoning for the site.

In the fall of 2006, property owners for the subject properties began discussion with the Dawson Neighborhood Contact Team and other neighborhood participants, through a series of meetings, concerning the current proposed plan amendment. A public meeting was held on February 12, 2007 concerning the proposed plan amendment. Notice was sent to property owners within 300 feet of the plan amendment area and Neighborhood Association and Planning Contact Team leadership and members were in attendance. At this meeting the Planning Contact Team voted to oppose a plan amendment for Mixed Use designation for the block bordered by Dunlap Street to the south, Reyna Street to the west, and Wadford Street to the east. The Contact Team expressed concerns that Mixed Use would be incompatible with the abutting single family property, would attract unwanted traffic to the interior of the neighborhood, and generally represents commercial encroachment into the neighborhood.

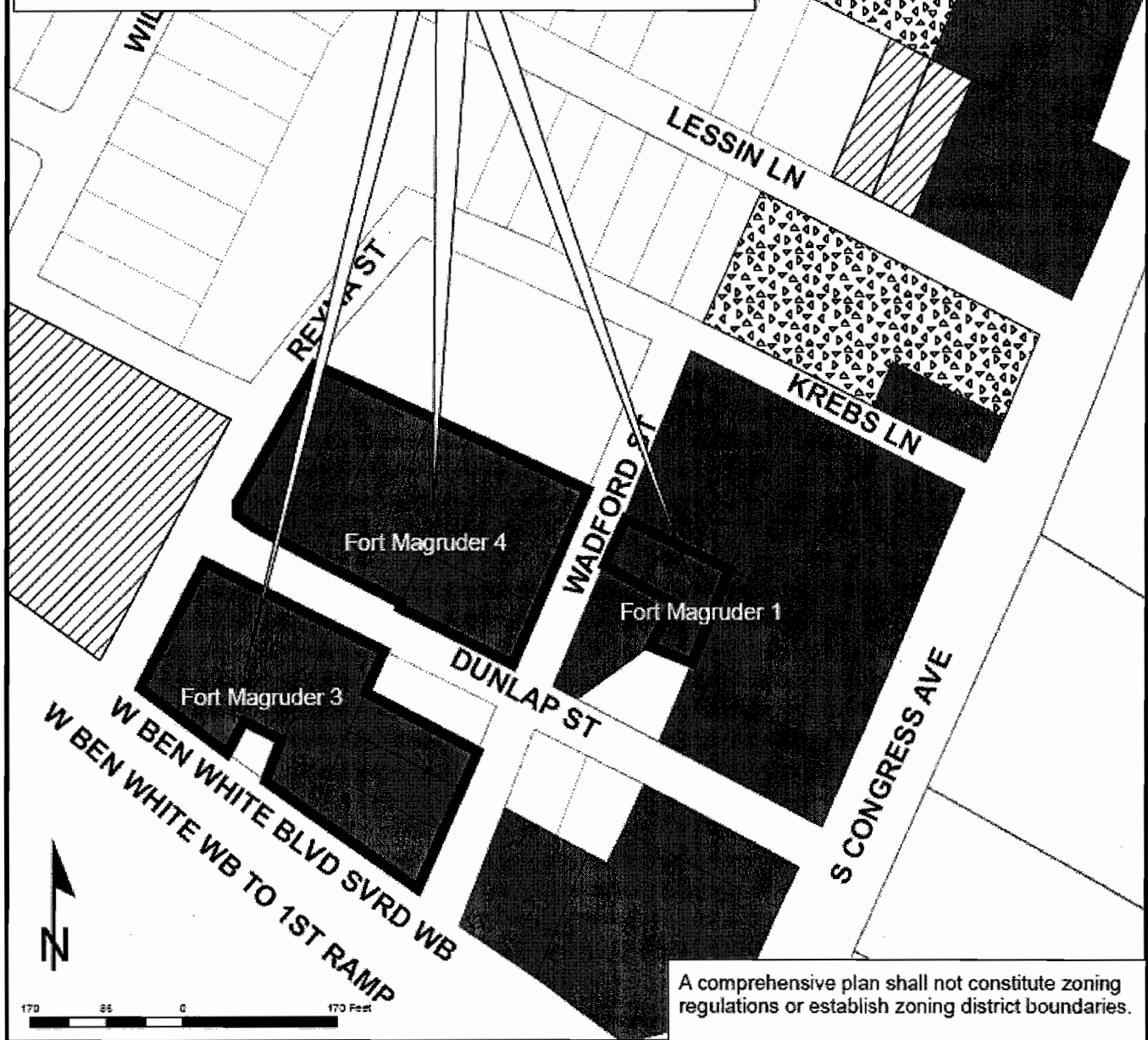
CITY COUNCIL DATE: July 26, 2007

ACTION: Pending

CASE MANAGER: Andrew Holubeck

EMAIL: andrew.holubeck@ci.austin.tx.us

Plan Amendment Site:
 206 - 213 Dunlap Street;
 3808, 3811, 3812, 3814, 3902, 3904, & 3906 Wadford St;
 and 3907-A Reyna Street
Change from:
SINGLE-FAMILY to MIXED USE Future Land Use



Dawson Neighborhood Plan Amendment: NPA-07-0001.01

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Created by NPZD July 18, 2008

	PLAN AMENDMENT AREA
	Future Land Use
	Single-Family
	Commercial
	Mixed Use
	Warehouse/Limited Office
	Industry

Plan Amendment Site:

207, 209, 211, and 213 Dunlap St; 3811, 3902, 3904, & 3906 Wadford St; and 3907-A Reyna St
Change from:

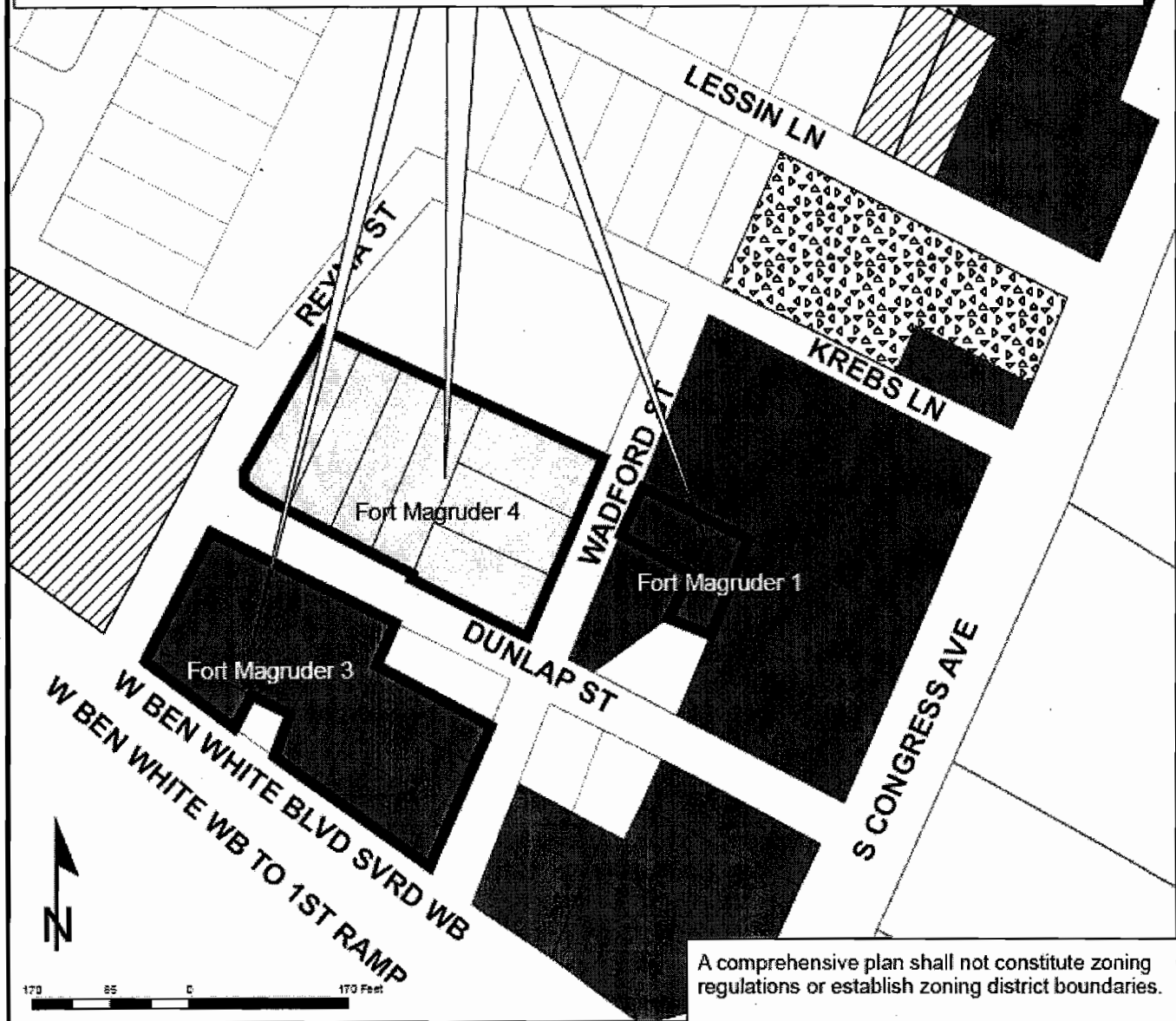
SINGLE-FAMILY to MIXED USE Future Land Use

Plan Amendment Site:

206, 208, 210, and 212 Dunlap St; and 3808, 3812, and 3814 Wadford St

Change from:

SINGLE-FAMILY to NEIGHBORHOOD MIXED USE Future Land Use



**Dawson Neighborhood Plan
Amendment: NPA-07-0001.01**

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**Staff
Recommendation**

	PLAN AMENDMENT AREA
	Future Land Use
	Single-Family
	Commercial
	Neighborhood Mixed Use
	Mixed Use
	Warehouse/Limited Office
	Industry

Cynthia Medlin
Chair of Dawson Neighborhood Plan (Contact) Team
2501 Wilson St.
Austin, TX 78704
Phone: (512) 440-1966
E-mail: cmedlin@austin.rr.com

July 17, 2007

Mayor Will Wynn
Mayor Pro Tem Betty Dunkerley
City Council Members
P.O. Box 1088
Austin, TX 78767

Dear Mayor Wynn, Mayor Pro Tem Dunkerley and Councilmembers:

What follows are many of the reasons that the Dawson Neighborhood Plan Team (Contact Team) is opposed to the Proposed Neighborhood Plan Amendment Case # NPA-07-0001.01 and it's associated zoning change Case # C14-2007-0048.

PROPOSED FLUM CHANGE IS NOT CONSISTENT WITH THE DAWSON NEIGHBORHOOD PLAN

The agent representing these properties, Mr. A. Ron Thrower, informed the DNPT and Dawson Neighborhood Association (DNA) officers that he received an email from Neighborhood Planning and Zoning Department (NPZD) staff stating that the proposed change in the Dawson Future Land Use Map did not require a change to the text of the Dawson Neighborhood Plan. This despite DNPT officers stating on several occasions before the Planning Commission and the Council in 2006 that a FLUM change from residential to commercial land use would require a change in text. The Dawson Neighborhood Plan on page 14 under "Residential Land Use/Action Items" states the following:

"The Planning Commission and City Council should uphold and preserve the residential zoning of the interior of the neighborhood. They should not allow lots outside the Congress and South First Street corridors to be zoned for commercial or more intensive uses."

Obviously the DNPT views as extremely problematic the fact that staff would recommend such blatant disregard for the text of our adopted neighborhood plan. To date no attempt has been made to address this significant oversight on the part of the NPZ Department.

FUTURE LAND USE MAP (FLUM) ISSUES

Since our Future Land Use Map (FLUM) was adopted by Council on June 13, 2006 the DNPT has contended that it does not want to amend the now adopted FLUM apart from amending the base zoning and conditions at the same time. It is our contention now, as it was then, that separating changes to the FLUM from changes to the zoning and conditions provides a mechanism for going around the spirit and the intent of the neighborhood planning process.

The officers of the DNPT believe that allowing a requested change in a FLUM to become a "Plan Amendment" is not appropriate because the FLUM is not addressed in the Land Development Code anywhere except under definitions. The authority with which City of Austin staff have imbued Future Land Use Maps does not exist anywhere in code and until it does should not be utilized as the powerful tool for altering land use that it has become.

On February 12, 2007 the DNPT voted against this proposed FLUM change and zoning change to the inner block bounded by Dunlap on the south, Wadford on the east, Krebs on the north and Reyna on the west (a.k.a. Block #4). The vote was 55 against and 31 in favor of the FLUM change and 54 against and 32 in favor of the proposed zoning change (to CS-MU). Due to the objections of property owners on the three other blocks who did not want to be included in the changes, a vote was not held on the FLUM changes proposed for those blocks (#1, #2 and #3).

At our June 11, 2007 the DNPT did conduct a vote on two of these blocks for a proposed FLUM change. Only properties, indicated by address, for which owners requested the change were included on the ballot. The total number of votes against adopting the proposed FLUM change (either without knowing the zoning or conditions or with no change to the existing FLUM) was greater than 50%. The lot between Dunlap on the north, Ben White on the south, South Congress on the east and Wadford on the west (a.k.a. Block #2) was not included in the vote because the SF 3 property owner does not want any change in his land use designation or his zoning.

Also on the June 11, 2007 ballot was an option for changing the FLUM for Block #4 from Single Family (SF) to High Density Single Family (HDSF) to give the property owners the benefit of up-zoning to allow for development of SF6 condominiums. This option would also allow more density and greater height on Block #3 that fronts Ben White. The majority of DNPT members voted to support this FLUM change at such time as the base zoning and conditions are known and approved by them. However, the property owners requesting the FLUM and zoning changes chose to withhold their votes in protest. Vocal property owners on Block #4 have not been willing at any time to discuss changes to their property that did not include commercial base zoning. These same property owners have not been willing to disclose to the DNPT why commercial zoning is so vital to their plans.

Please note the following: The DNPT did not exclude the owners or residents of the properties for which the FLUM change is proposed from voting on these issues nor did they recuse themselves. Ordinance No. 030605-53 Concerning the Neighborhood Plan Amendment Process, Part 4 amends Ordinance 030320-23 Part 6 Subsection (E) to address conflict of interest and states that a member of a contact or planning team "may not participate in a decision on a matter affecting a person, entity or property in which the member has a substantial interest". In addition, Roberts Rules of Order also requires members to recuse themselves from voting when there is a conflict of interest. The DNPT has never been advised by NPZD staff, present at all of our meetings, of this section of the ordinance.

OTHER ISSUES

In addition to the above, officers of the DNPT believe there were several precedents set in this case that are detrimental to Neighborhood Planning and if allowed to continue will lead to total

distrust in the process for future planning efforts. Some examples of these precedents in our case are as follows:

1. An “agent” of several individual property owners was granted payment of a single fee for filing a plan amendment for multiple properties. If there had been a single developer who owned the several properties this could have been justified but there were multiple property owners and the COA did not require any verification that they were in agreement with the requested amendment or legally associated with each other in any way.
2. The requirement that applicants for a plan amendment that is not supported by the neighborhood plan or contact team must notify the property owners and residents of the plan area was not enforced by NPZD. Despite the major change to the neighborhood plan this type of development should have engendered the COA determined that only property owners within 300 feet needed to be notified and did so at city expense.
3. NPZD failed to notify two individual property owners that a change to their land use was being acted upon by the Planning Commission. These two owners had expressly requested that their SF properties not be included in either the FLUM or the zoning change.
4. NPZD staff supported a change to our neighborhood plan which is not consistent with the text or the intent of the neighborhood plan and, in our opinion, does not meet the criteria as outlined in Ordinance No. 030320-23 Part 8 regarding amending a neighborhood plan.
5. NPZD staff recommended applying a new land use category, Neighborhood Mixed Use, to Block #4 even though, at the time, it had not been adequately vetted or presented to the Planning Commission or adopted by Council. The Planning Commission subsequently recommended this land use be applied, against the majority opinion of the DNPT, to this block. This new land use category has still not gone before the Planning Commission or the Council for final approval.

These actions, taken individually, may not seem significant. However, when taken together they lead to the impression that it is possible to subvert the neighborhood planning process to the benefit of an influential person or group of individuals. While officers of the DNPT assume this is an unintentional consequence it lends an air of suspicion and mistrust. As none of us want to further divide the citizenry of this great city we hope the Council will join us in assuring the neighborhood planning process is administered fairly and consistently from this time forward and that any problems inherent in COA codes and ordinances are addressed.

Sincerely,

Cynthia Medlin

Chair, Dawson Neighborhood Plan Team

cc: Staff of NPZD

Officers of the DNA/DNPT