

**Rousselin, Jorge**

**From:** [REDACTED]  
**Sent:** Monday, November 19, 2007 3:41 PM  
**To:** Rousselin, Jorge  
**Cc:** Betty Knight; Chris Peele; Christina E. Lynch; CPA Linden R. Welsch; Douglas Batson; John Bibo ; Kristina Higgins; Leane Heldenfels; Leslie Welsch; Liz Handlin; Meredith Landry; Pamela Mayo Clark; Sandi Hauser; Stephen Franke; Tom Kendall; Andrew Solomon; Bert Pence; Beth Granger; Brandon Fulkoff, Com; Cameron Clark; Carol Mc Dowell, Com; Carrie McDowell; [REDACTED]; Cori Samp, Ph.D.; [REDACTED]@Gmail.Com; Elpidiano C Yon, Com; Gresham Rolaw, Com; Jane Phares; Kristi Koch; [REDACTED]@smallbusiness.com; Lavelock @ Grandtaco.Net; Margie Burciaga; Mark Kiedler @ Dycus, Net; Mike Fairmont @ management.com; [REDACTED]@Earthlink.Net; Nathan Wood; Niki Jiji @ Ash.Com; Niki Jiji @ Shagle.Bat.Net; Phil Butler; [REDACTED]@drhorton.com; Rick Burciaga; Sherri @ Captivacardio.Com; Sherry Buchanan; [REDACTED]@Hotmail.Com; [REDACTED]@streetbank.com; Tonda 8191 @Yahoo.Com; [REDACTED]@times.net; Arlen Driscoll; Bill Bohn; Corey Hicks; Curtis McNeill; Daniel Balcauski; David D. Lyne; David Leavell; [REDACTED]@pubcom.net; Eric Heuring; [REDACTED]@pubcom.net; Jim Woodmansee; 'John Klier'; Lee Easter; [REDACTED]@edford.com; Michael Johnson; Paul Tobias; [REDACTED]@Streetbank.com; Steven Weller; Tom Gerrity; David Schnautz; Dr. Edward Bellingrath; G. Tim Aynesworth; Matt Twite

**Subject:** Council White paper and estimate on UNO and the NPSHPG

**Attachments:** McComb cover letter.pdf; Streetscape Estimate.pdf; Council white paper.pdf

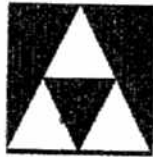
See attachments.  
Please provide to Council Members.

G. Tim Aynesworth, NCARB

Registered Architect 5014  
Registered Interior Designer 7820

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# McComb Construction Co., Inc.

GENERAL CONTRACTORS • CONSTRUCTION MANAGERS • DESIGN/BUILD

Thursday, November 15, 2007

G. Tim Aynesworth, NCARB  
P. O. Box 161434  
Austin, Texas 78716

Re: Sigma Chi Streetscape Estimate

Gentlemen:

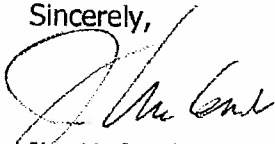
Attached is our estimate of the cost to install approximately 395 lft of streetscape including the following work:

1. Remove existing sidewalk
2. Install tree wells for trees at approximately 40' centers
3. Install drip irrigation to the tree wells
4. Install 395 lft x 12' wide 4" thick sidewalk
5. Install 10 - 8' - 10' trees acceptable to The City of Austin.
6. Install cast iron powder coated tree grates, ADA approved.

Lump Sum Bid for this work \$95,237.00.

Thank you for giving us the opportunity to bid this work.

Sincerely,

  
Jim McComb  
CEO

P.O. Box 18805, Austin, TX 78760  
8008 Burleson Road, Austin, TX 78744  
(512) 385-5555 (512) 385-5400 FAX



Standard Estimate Report

Sigma Chi Street Scape

Project name	Sigma Chi Street Scape
Labor rate table	BCCD2002
Equipment rate table	BCCD2002
Report format	Sorted by Assembly Clear Summary

Standard Estimate Report  
Sigma Chi Street Scape

Phase	Item	Description	Takeoff Qty	Amount	Amount	Amount	Names	Amount	Amount	Unit Cost	Amount
<b>02811 Site Improvements</b>											
02775.27%		0310 Sitework, 12' wide 4" thick base of curb	4,740.00 sf		0	18,960					
02810.80%		0100 Sprinkler irrigation system, residential system, 1-1/2" supply	1.00 ls		0	5,000				4.00 /sf	18,960
02845.90%		0100 Planter, precast, conc. filled, 7' dia, 36" high	10.00 ea		0	3,600				6,000.29 /ls	5,000
02945.90%		0100 Gravel at Planters	10.00 ea		0	17,600				350.00 /ea	3,600
02930.90%		0100 Trees, deciduous, in bed, 8-10'	10.00 ea		0	3,200				1,760.00 /ea	17,600
16520.30%		2720 Erosion control, machinery and materials, mercury vapor, 400 watt	10.00 ea		0	32,000				3,200.00 /ea	32,000
<b>Site Improvements</b>											
		273.98 Labor hours			0	80,160					80,160
		8.00 Equipment hours									

## Estimate Totals

Description	Amount	Total	Hours	Rate	Cost	Per Unit	Percent of Total
Labor	80,160	80,160	273.97 hrs				
Material							
Subcontract	80,160	80,160	8,000 hrs				0.00%
Equipment							84.17%
Other							
Labor Insurance - Sub	545	545					0.57%
General Conditions	4,008	4,008					4.88%
Permits & Fees	1,000	1,000					1.25%
GC Overhead & Profit (%)	8,324	8,324					10.00%
<b>Total</b>	<b>95,237</b>	<b>95,237</b>					<b>100.00%</b>

## **Non-profit Student Housing Preservation**

November 19, 2007

### **BACKGROUND**

The applicants represented by the **Non-profit Student Housing Preservation Group** have been providing affordable student housing in the west campus area since before the founding of the University of Texas. All of the applicants were in the neighborhood for decades before UNO. Sorority and fraternity houses are located in the west campus as a result of good planning. Members of the **NPSHPG** requesting a Conditional Overlay are:

• Sigma Chi Fraternity- established at UT in 1884	CI4 2007-0110
• Tejas Fraternity	CI4 2007-0113
• Alpha Chi Omega	CI4 2007-0117
• Alpha Xi Delta	CI4 2007-0118
• Pi Beta Phi	CI4 2007-0119
• Sigma Alpha Epsilon - established in Austin in 1882	CI4 2007-0128
• Kappa Alpha Theta	CI4 2007-0132
• Alpha Epsilon Phi	CI4 2007-0142
• Delta Delta Delta	CI4 2007-0195

Just these nine groups have more than 5,000 alumni residents in the 787 zip code. However there are at least 60 Greek letter groups at the University of Texas at Austin.

### **Non-profit student housing providers**

These properties are owned by special non-profit corporations classified as 501 c 2. They are not and cannot be classified as 501 c 3. These corporations collect rent from the students and pay the bills on the property. There is no profit, so every expense item is important because it is the students who actually pay the bills.

**University Area Partners** is an association of property owners, businesses, merchants, religious organizations, tenants, students, and concerned citizens serving the West Campus area.

- President: Cathy Norman, Church of Scientology
- VP and City Council Liaison: Mike McHone, McHone Real Estate (broker)
- Treasurer: Walter Wukasch, real estate investor
- Board Member: Rick Hardin, real estate investor

**CANPAC** (Central Austin Neighborhoods Planning Area Committee) is a group of neighborhoods which includes the West Campus area.

- Primary contact is Ms. Lin Team, real estate broker

- Alternate Contact: Walter Wukasz, real estate investor

## **ZONING**

Each applicant is zoned MF-4 and this zoning allows a Floor Area Ratio of 0.75, whereas the UNO has an unlimited Floor Area Ratio.

## **UNIVERSITY NEIGHBORHOOD OVERLAY**

The purpose of the university neighborhood overlay (UNO) district is to promote high density redevelopment in the area generally west of the University of Texas campus, provide a mechanism for the creation of a densely populated but livable and pedestrian friendly environment, and protect the character of the predominantly single-family residential neighborhoods adjacent to the district.

### **§ 25-2-75I APPLICABILITY,**

This division applies to property in the university neighborhood overlay (UNO) district if the property owner files a site plan and an election for the property to be governed by this division.

In order for the city to control development under UNO, the ordinance requires a property owner to submit a site plan to the city and knowingly elect to be governed by the UNO. None of the applicants ever intend to develop under the UNO. They will not submit a site plan or elect for the property to be governed by UNO. Therefore, they are not required to comply with the regulations of UNO.

## **CHAPTER 25 OF THE LAND DEVELOPMENT CODE**

### **§ 25-2-164 CONDITIONAL OVERLAY (CO) COMBINING DISTRICT PURPOSE.**

(A) The purpose of a conditional overlay (CO) combining district is to modify use and site development regulations to address the specific circumstances presented by a site.

(B) A CO combining district may be used to:

- (1) promote compatibility between competing or potentially incompatible uses;
- (2) ease the transition from one base district to another;
- (3) address land uses or sites with special requirements; and
- (4) guide development in unique circumstances.

Conditional Overlay: A zoning tool that modifies land use and development regulations to address specific circumstances presented by a particular geographic area or site. It usually imposes further requirements in addition to those required by the base district. **A conditional overlay is a restrictive tool in that it can prohibit, or make conditional, specific uses, but it cannot add uses.**

A conditional overlay may be combined with any base zoning. A conditional overlay may

- Prohibit permitted, conditional, and accessory uses otherwise allowed in a base district

- Make a permitted use a conditional one
- Decrease the density that may be constructed
- Decrease building heights
- Increase minimum setback requirements
- Decrease the maximum impervious cover
- Restrict access to adjacent roads and require specific design features to minimize the effects of traffic.

### **GOOD PLANNING PRACTICE**

The applicants provide affordable housing and related services. They rely on pedestrian access to the University of Texas. For at least 100 years the west campus area has been the appropriate location for sorority and fraternity houses.

### **The Ordinance and City Code**

- The UNO's **Applicability Clause** requires a property owner to intentionally decide to be governed by UNO.
- The City code allows a way for an owner to voluntarily apply a **Conditional Overlay** to its property.

### **Staff Recommendation**

The City of Austin's professional planning staff recommends approval of the requested Conditional Overlay.

### **The affect of the Conditional Overlay**

- No changes of use or improvements are requested.
- Each property will remain in UNO but will give-up the increased development rights available to them.
- The City's use of the right-of-way will be unchanged.
- The applicants will be permitted to remodel, add-on, or demolish and rebuild under its underlying base zoning.

### **Planning Commission**

University Area Partners and CANPAC objected to the overlay at the planning commission. These Non-Governmental Organizations demanded that the applicants enter into a "private restrictive covenant" which would have circumvented the Applicability Clause and cost each applicant at least \$240 per linear foot of right of way. This is clearly upside down logic and outright coercion.

They made several arguments summarized below:

*That the applicants are not using the best method to reduce development potential of the land.*

Neither the City, nor these Non-Governmental Organizations have any authority or responsibility for property taxes or how the applicants organize their affairs. UAP and CANPAC have suggested that the applicants take one of three actions. The applicants considered all three options and rejected these options for good reasons.

- Historic Zoning - Historic zoning is a separate process which probably will not be achievable or desirable
- Convert to a 501 c 3 classification - Converting to a 501 c 3 would mean the end of each fraternity or sorority or
- A private restrictive covenant with UAP or CANPAC. The private restrictive covenant is a conflict of interest and a poor business decision. The only party who could remove the restrictive covenant would be the UAP or CANPAC. Whereas the Conditional Overlay would be openly with the City of Austin under current laws, the private restrictive covenant would be enforced by lawsuit.

*That the applicants are not providing adequate sidewalks.*

The applicants have fully functional city sidewalks which are actually in good condition. There is no proof that 12 foot wide sidewalks are actually necessary.

*That the applicants are not providing adequate street trees.*

While the city could provide more trees, each applicant has landscaped the right of way.

*That the applicants are not providing adequate lighting.*

While the city could provide more lighting, the existing lighting is tolerable.

*The applicants should pay for these right of way improvements or at least not object, It is city right of way and the city can do what it wants in the right of way.*

Any need for wider sidewalks is the result of For-profit development NOT the Non-profit Student Housing.

### **Cost of the Streetscape**

The applicants acquired a conceptual estimate for the property located at 2701 Nueces just so people would know the order of magnitude of the expense. It has been estimated by a General Contractor who is actually doing a similar project now, to be between \$90,000 and \$100,000 or in other words at least \$241.00 per linear foot. The applicants are not required to provide the street scape as a matter of law.

### **Repercussions**

The Non-Governmental Organizations are attempting to circumvent the Applicability Clause so as to force the applicants to provide the street scape.

Also, they seek to deny the applicants the remedy provided by the Staff Recommended Conditional Overlay.

Any property owner within the boundaries of UNO could be forced to provide the UNO street scape even without filing a site plan or electing to be governed by UNO. This would affect every property owner in the UNO but ultimately every property owner in Austin.



**Please do not delay the hearing**

These cases must not be delayed. Should the Council delay hearing the cases, it will hear the same misleading arguments presented by UAP and CANPAC to the Planning Commission. The applicants have met with these Non-Governmental Organizations several times. The applicants cannot agree to providing the street scape or to a private restrictive covenant. Nothing will be accomplished by delaying the hearing except that the individuals connected with these two Non-Governmental Organizations will further damage the applicants financially.

Prepared by,

G. Tim Aynesworth  
NPSHPG

**Rousselin, Jorge**

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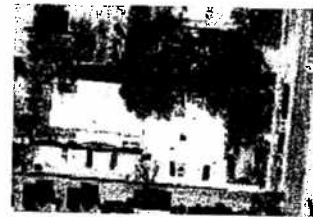
**From:** Tim Aynesworth (~~tim@aynesworth.com~~) on behalf of Tim Aynesworth  
(~~Sigma\_Chi\_Tim@aynesworth.com~~)  
**Sent:** Monday, November 19, 2007 5:14 PM  
**To:** Rousselin, Jorge  
**Cc:** Betty Knight; Chris Peele; Christina E. Lynch; CPA Linden R. Welsch; Douglas Batson; John Bibo ; Kristina Higgins; Leane Heldenfels; Leslie Welsch; Liz Handlin; Meredith Landry; Pamela Mayo Clark; Sandi Hauser; Stephen Franke; Tom Kendall  
**Subject:** NPSHPG Aerial photos attached  
**Attachments:** Aerial AEP.JPG; Aerial AXO.JPG; Aerial AZD.JPG; Aerial KAT.JPG; Aerial Pi Phi.JPG; Aerial SAE.JPG; Aerial Sigma Chi.JPG; Aerial Tejas.JPG; Aerial Tri-Delt.JPG



Aerial AEP



Aerial AXO



Aerial AZD



Aerial KAT



Aerial Pi Phi



Aerial SAE



Aerial Sigma Chi



Aerial Tejas



Aerial Tri-Delt

G. Tim Aynesworth, NCARB  
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11/20/2007

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**Rousselin, Jorge**

**From:** ~~tim@aynesworth.com~~  
**Sent:** Monday, November 19, 2007 5:28 PM  
**To:** Rousselin, Jorge  
**Cc:** Betty Knight; Chris Peele; Christina E. Lynch; CPA Linden R. Welsch; Douglas Batson; John Bibb; Kristina Higgins; Leane Heldenfels; Leslie Welsch; Liz Handlin; Meredith Landry; Pamela Mayo Clark; Sandi Hauser; Stephen Franke; Tom Kendall  
**Subject:** NPSHPG Sidewalks  
**Attachments:** AChiO Sidewalks.JPG; Alpha Epsilon Phi sidewalks.JPG; Alpha Xi Delta sidewalks.JPG; Kappa Alpha Theta sidewalks.JPG; Pi Beta Phi sidewalks.JPG; SAE sidewalks.JPG; Sigma Chi Sidewalks.JPG; Tejas sidewalks.JPG; Tri Delts sidewalks.JPG



ACHiO Sidewalks



Alpha Epsilon Phi sidewalks



Alpha Xi Delta sidewalks



Kappa Alpha Theta sidewalks



Pi Beta Phi sidewalks



SAE sidewalks



Sigma Chi Sidewalks



Tejas sidewalks



Tri Delts sidewalks

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11/20/2007

**Delta Delta Delta Sorority**

**Theta Zeta Chapter (University of Texas at Austin)**

**503 W. 27<sup>th</sup> Street**

**Austin, TX 78746**

November 20, 2007

**Honorable City of Austin Council Members and Mayor:**

Since 1883 The University of Texas and City of Austin have had a mutually beneficial relationship with the Greek community. Our chapter established its non-profit group living house at its current location almost **100 years ago**. Greeks provide an important lifestyle option, affordable housing and meals all within walking distance of the campus. We along with the **415 current and alumnae members of the Theta Zeta Chapter and more than 1,400 members of Delta Delta Delta chapters nationwide that currently live in the City of Austin** support the purpose of the Greek community and believe that its future at the University of Texas and in the City of Austin should be encouraged and protected.

Fraternities, sororities and other non-profit student housing providers have had enormous increases in their property taxes since the University Neighborhood Overlay (UNO) was passed in 2004. For example, we have seen a **\$1,803,976 increase in our valuation during this time period**, on a property that was valued at \$1,500,000 in 2004 (and had retained that valuation since 2000). Obviously, the land we all occupy is now more desirable for redevelopment under UNO, but redevelopment does not fit within our mission. This has been an unforeseen, and we believe **unintended consequence of the UNO** that we are now trying to address by requesting a more accurate zoning designation that more closely reflects our current and future land use. The additional height (up to eight stories in our case) and reduced parking standards included in the plan as incentives for redevelopment will go unused in our case.

**We ask that the City of Austin take two steps:**

- 1) **Approve** the the conditional overlays currently being requested by various Greek organizations and **recommended by the City Planning Staff (our case is #C14-2007-0195)**; and
- (2) **Work to make and ordinance amendment within the West Campus neighborhood plan that would establish a new zoning classification for Nonprofit Student Housing** which acknowledges the intended use as fraternity/sorority housing.

We continually research all options to continue to make our property an affordable place to reside, but we believe that having an accurate zoning classification will be an important step in ensuring the long-term best use of our property as a group living residence and club.

As always, we appreciate the opportunity to work together on the mutual goals of the City of Austin and The University of Texas.

**THANK YOU FOR YOUR SERVICE TO THE CITY OF AUSTIN AND SUPPORT!**

Sincerely,

Theta Zeta House Corporation Members and current Theta Zeta Chapter Members  
(please signatures on attached pages)