

ZONING CHANGE REVIEW SHEET

CASE: C14-2007-0190

ZAP DATE: November 6, 2007
December 18, 2007

ADDRESS: 1015 East Braker Lane

OWNER/APPLICANT: Schuh Family Limited Partnership (Dwain J. Schuh)

AGENT: Richard H. Crank

ZONING FROM: LO, LR

TO: GR-CO*

AREA: 0.7516 acres

*The applicant has proposed a conditional overlay that would prohibit Drive-In Service in conjunction with restaurant uses and would prohibit the following uses on the property:

- 1) Automotive Rentals
- 2) Automotive Repair Services
- 3) Automotive Sales
- 4) Automotive Washing (of any type)
- 5) Bail Bond Services
- 6) Commercial Off-Street Parking
- 7) Drop-Off Recycling Collection Facility
- 8) Exterminating Services
- 9) Funeral Services
- 10) Hotel-Motel
- 11) Indoor Entertainment
- 12) Indoor Sports & Recreation
- 13) Monument Retail Sales
- 14) Off-Site Accessory Parking
- 15) Outdoor Entertainment
- 16) Outdoor Sports and Recreation
- 17) Pawn Shop Services
- 18) Personal Services
- 19) Plant Nursery
- 20) Service Station
- 21) Theater
- 22) Communication Service Facilities
- 23) Community Recreation (Private)
- 24) Community Recreation (Public)
- 25) Congregate Living
- 26) Counseling Services
- 27) Guidance Services
- 28) Local Utility Services
- 29) Residential Treatment
- 30) Urban Farm

SUMMARY STAFF RECOMMENDATION:

The staff recommends GR-CO, Community Commercial-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity for the site to less than 2,000 vehicle trips

per day, would prohibit Drive-In Services and would limit the site to 'LR' district uses with the exception of the following permitted 'GR' district uses:

- Business or Trade School
- Business Support Services
- Communication Services
- Food Preparation (as a conditional use)
- Food Sales
- General Retail Sales (General)
- Personal Improvement Services
- Research Services
- Restaurant (General)
- Hospital Services (Limited)

ZONING AND PLATTING COMMISSION RECOMMENDATION:

11/06/07: Postponed to December 18, 2007 by the applicant (7-0, S. Hale-absent); J. Martinez-1st, T. Rabago-2nd.

12/18/07: Approved staff's recommendation of GR-CO zoning, adding Counseling Services back as a permitted use, by consent (8-0); K. Jackson-1st, J. Shieh-2nd.

ISSUES:

The applicant has received a letter of support for the proposed rezoning from the Northeast Walnut Creek Neighborhood Association. The letter contains a list of allowable, prohibited and conditional uses that the applicant has agreed upon with the neighborhood (Neighborhood Association Letter – Attachment B).

DEPARTMENT COMMENTS:

The property in question is undeveloped. This lot is part of a larger 5.44 acre tract of land that extends to the south and east and is owned by the applicant. The property to the south, which is located in the County, contains a warehouse structure that is utilized for furniture storage. The land to the east is developed with a commercial strip center that currently houses retail sales and limited restaurant uses. The Neighborhood Planning and Zoning staff sent the applicant a letter stating that the City of Austin proposes to annex the surrounding property in December of 2008. The applicant is requesting GR, Community Commercial District, zoning for the site under consideration because he would like to develop a variety of retail, restaurant, and other commercial uses at this location (Zoning Request Letter – Attachment A).

The staff recommends GR-CO zoning for this lot because the property meets the intent of the Community Commercial District as it is located at the intersection of a collector street, Bluff Bend Drive, and an arterial roadway, Braker Lane. The staff's proposal for GR-CO zoning will allow the applicant to develop this property with commercial and office uses. The site is located adjacent to existing commercial uses to the south, east and west. The proposed GR-CO zoning will promote consistency and orderly planning in this area as it will allow for commercial uses to be developed at the corner of Braker Lane and Bluff Bend Drive while promoting a transition in the intensity of uses to the east along Braker Lane away from Interstate Highway-35.

The applicant agrees with the Zoning and Platting Commission's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO, LR	Undeveloped
<i>North</i>	SF-2	Undeveloped
<i>South</i>	County	Warehouse (Furniture Storage)
<i>East</i>	County	Restaurant (Vasquez Mexican Restaurant)
<i>West</i>	SF-2	Commercial Strip Center (Austin Countertops/Ames Tools, Supplies, and Service/ Pizza Hut)

AREA STUDY: N/A**TIA:** Waived**WATERSHED:** Walnut Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**HILL COUNTRY ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**

51 - Northeast Walnut Creek Neighborhood Association
64 - River Oaks Lakes Estates Neighborhood
114 - North Growth Corridor Alliance
511 - Austin Neighborhoods Council
643 - NorthEast Action Group
742 - Austin Independent School District
937 - Taking Action Inc.

SCHOOLS:

Graham Elementary (approximately 1500 feet to southeast)
Pflugerville #4 Middle School
Dobie Middle School
Lanier High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-06-0130	SF-2 to CS-1	7/18/06: Postponed to August 15, 2006 by the applicant (6-0, B. Baker, J. Gohil, J. Martinez-absent) 8/15/06: Case withdrawn by applicant, no action required by the Commission.	N/A
C14-04-0058	GR to CS-1	6/01/04: Approved the staff's recommendation to deny the request for CS-1 zoning (8-0, J. Pinnelli –absent)	11/18/04: Approved CS-1 on 1 st reading (Vote: 5-2, Wynn, Slusher-No), with following requirements: 1) Create a rollback public restrictive covenant stating that if the use ceases in 90 days

		<p>6/07/04: Motion made to rescind, reconsider the June 1, 2004, motion (6-2, B. Baker, C. Hammond-Nay, J. Pinnelli-absent)</p> <p>Motion made to continue case to July 20, 2004 (6-2, B. Baker, C. Hammond-Nay; J. Pinnelli-absent)</p> <p>7/20/04: Approved staff recommendation to deny CS-1 zoning (5-3, J. Gohil, J. Martinez, K. Jackson-Nay; J. Pinnelli-absent)</p>	<p>the property would be rolled back to GR zoning; 2) Encourage the applicant and neighborhood work out some private restrictive covenant agreement prior to 2nd/3rd readings.</p> <p>4/07/05: Approved 2nd reading only. Applicant asked to continue working with the neighborhood (6-1, Slusher-No)</p> <p>5/2605: CS-1 zoning denied (7-0)</p>
C14-03-0097	MF-3-CO to GO	<p>8/12/03: Approved staff's alternated recommendation of GO-CO (9-0), CO to limit the development intensity on the site to less than 2,000 vehicle trips per day; with additional conditions as read into the record (agreed to by Neighborhood and Applicant):</p> <p>1) Prohibit the following uses: Bed and Breakfast (Group 1), Bed and Breakfast (Group 2), Administrative and Business Offices, Art and Craft Studio (Limited), Business or Trade School, Business Support Services, Communication Services, Medical Offices – exceeding 3,000 square feet of gross floor area, Off-Site Accessory Parking, Personal Services, Professional Office, Software Development, College and University Facilities, Communication Service Facilities, Cultural Services, Day Care Services (Commercial), Day Care Services (Limited), Family Home, Guidance Services, Hospital Services (Limited), Local Utility Services, Private Primary Educational Facilities, Private Secondary Educational Facilities, Public Primary Educational Facilities, Public</p>	<p>9/25/03: Approved ZAP rec. of GO-CO (7-0); all 3 readings</p>

		Secondary Educational Facilities, Safety Services; 2) Height restriction of 48 feet	
C14-02-0130	CS-1 to GR	9/10/02: Approved staff's recommendation of GR zoning by consent (6-0, D. Castaneda-absent)	10/10/02: The Council had many questions about this case because the neighborhood spoke out both for and against the rezoning. The neighborhood felt the rezoning request did not cover the entire tract subject to the prior restrictive covenant (from case C14-95-0034) and stated their opposition to the pending conditional use permit for a new cocktail lounge. Sarah Crocker raised the issue regarding DAC'S approval of a site plan exemption for a cocktail lounge use and Alice Glasco explained how this error occurred. (7-0); all 3 readings
C14-02-0033	CS, GR to CS-1	4/16/02: Approved staff rec. to deny CS-1 (5-0)	5/23/02: Denied CS-1 (7-0)
C14-98-0194	SF-2 to CS	6/15/99: Approved staff rec. of CS-CO with additional conditions prohibiting Adult Oriented Businesses, Agricultural Services, Exterminating Services, Pawn Shop Services, and Vehicle Storage (6-0)	7/15/99: Approved PC rec. of CS-CO with conditions (6-0); 1 st reading 12/02/99: Approved (6-0, WL-absent); 2 nd /3 rd readings
C14-95-0054 "Expired"	GR to CS-1	5/23/95: Denied CS-1 as requested (6-0)	6/22/95: Motion to deny failed (2-2-1, EM/RR-no, GG-abstain), no action taken
C14-95-0034	TRA: CS to CS-1 TRB: CS to CS-1	5/9/95: Denied CS-1 (6-0)	6/1/95: Approved CS-1 w/ conditions: To approve CS-1, with a restrictive covenant that provides for rollback to GR, if cocktail use does not open within 1 year of zoning case or ceases for more than 90 days. (4-1-2, BS-no, JG/BT-abstain); 1 st reading 8/17/95: Approved CS-1 (4-1-2, BS-no, JG/BT-abstain); 2 nd reading 8/24/95: Approved CS-1 (5-1, JG-Nay); 3 rd reading
C14-88-0110	GR to CS-1	9/27/88: Grant CS-1 w/ conditional overlay	10/27/88: Approved CS-1 w/conditions; all 3 readings

RELATED CASES: C14R-86-057(RCT) – Restrictive Covenant Termination for this property

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Joseph Clayton Drive	60'	30'	Collector	No	No	No

CITY COUNCIL DATE: January 17, 2008 **ACTION:**

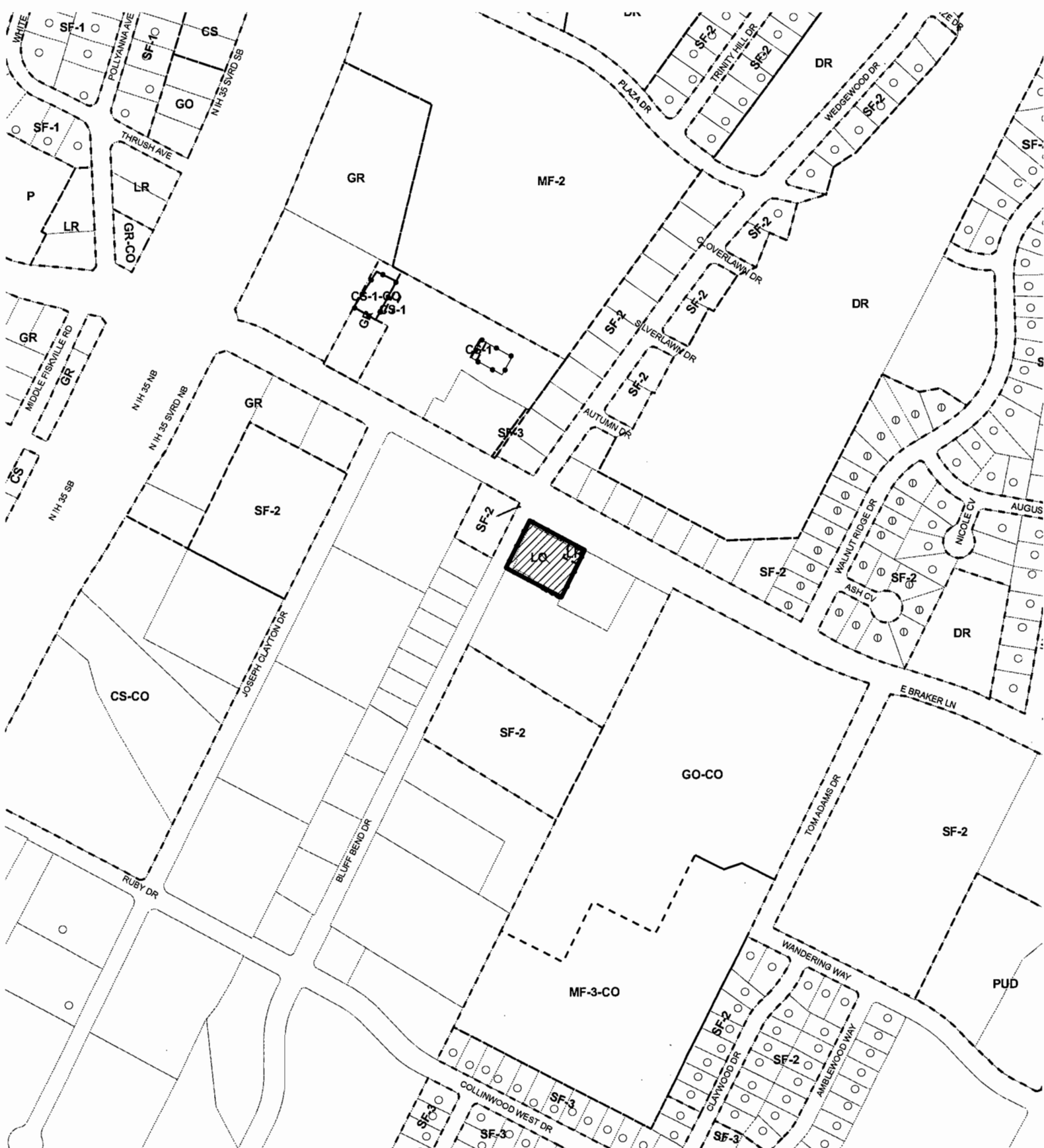
ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

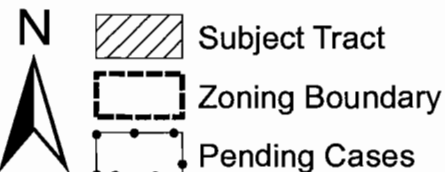
PHONE: 974-3057

EMAIL: Sherri.Sirwaitis@ci.austin.tx.us



ZONING

ZONING CASE#: C14-2007-0190
 ADDRESS: 1015 E BRAKER LANE
 SUBJECT AREA: 0.7516 ACRES
 GRID: M31
 MANAGER: S. SIRWAITIS



1" = 400' OPERATOR: S MEEKS

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

STAFF RECOMMENDATION

The staff recommends GR-CO, Community Commercial-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity for the site to less than 2,000 vehicle trips per day, would prohibit Drive-In Services and would limit the site to 'LR' district uses with the exception of the following permitted 'GR' district uses:

- Business or Trade School
- Business Support Services
- Communication Services
- Food Preparation (as a conditional use)
- Food Sales
- General Retail Sales (General)
- Personal Improvement Services
- Research Services
- Restaurant (General)
- Hospital Services (Limited)

BASIS FOR RECOMMENDATION

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

Community commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

2. *The proposed zoning should promote consistency and orderly planning.*

GR-CO zoning will promote consistency and orderly planning in this area because it will create a transition in the intensity of uses to the east along Braker Lane away from Interstate Highway-35. GR-CO zoning will also allow the applicant to develop this property in the future with numerous commercial and office uses that are consistent with the existing uses surrounding the site the south, east and west.

EXISTING CONDITIONS

Site Characteristics

The site is an undeveloped grassy portion of a lot located at the southeastern corner of Braker Lane and Bluff Bend Drive.

Impervious Cover

The maximum impervious cover allowed by the GR zoning district would be 90%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

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

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

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.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Transportation

No additional right-of-way is needed at this time.

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]

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
E Braker Ln	115'	60'	Arterial	Yes	Rt 10	392 Braker
Bluff Bend Dr	53'	28'	Local	Yes	No	

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocation, and abandonment. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All

water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Site Plan

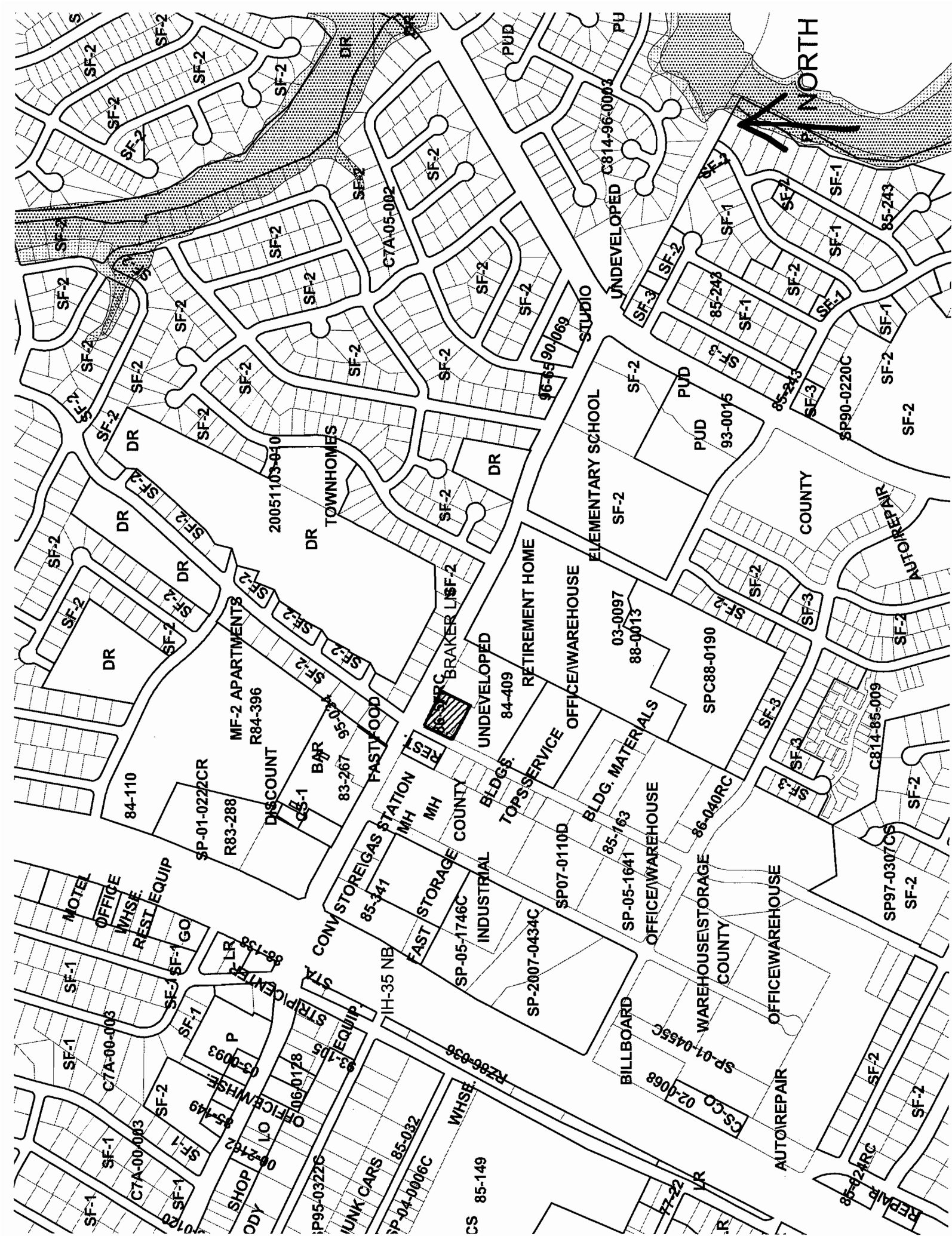
Site plans will be required for any new development other than single-family or duplex residential.

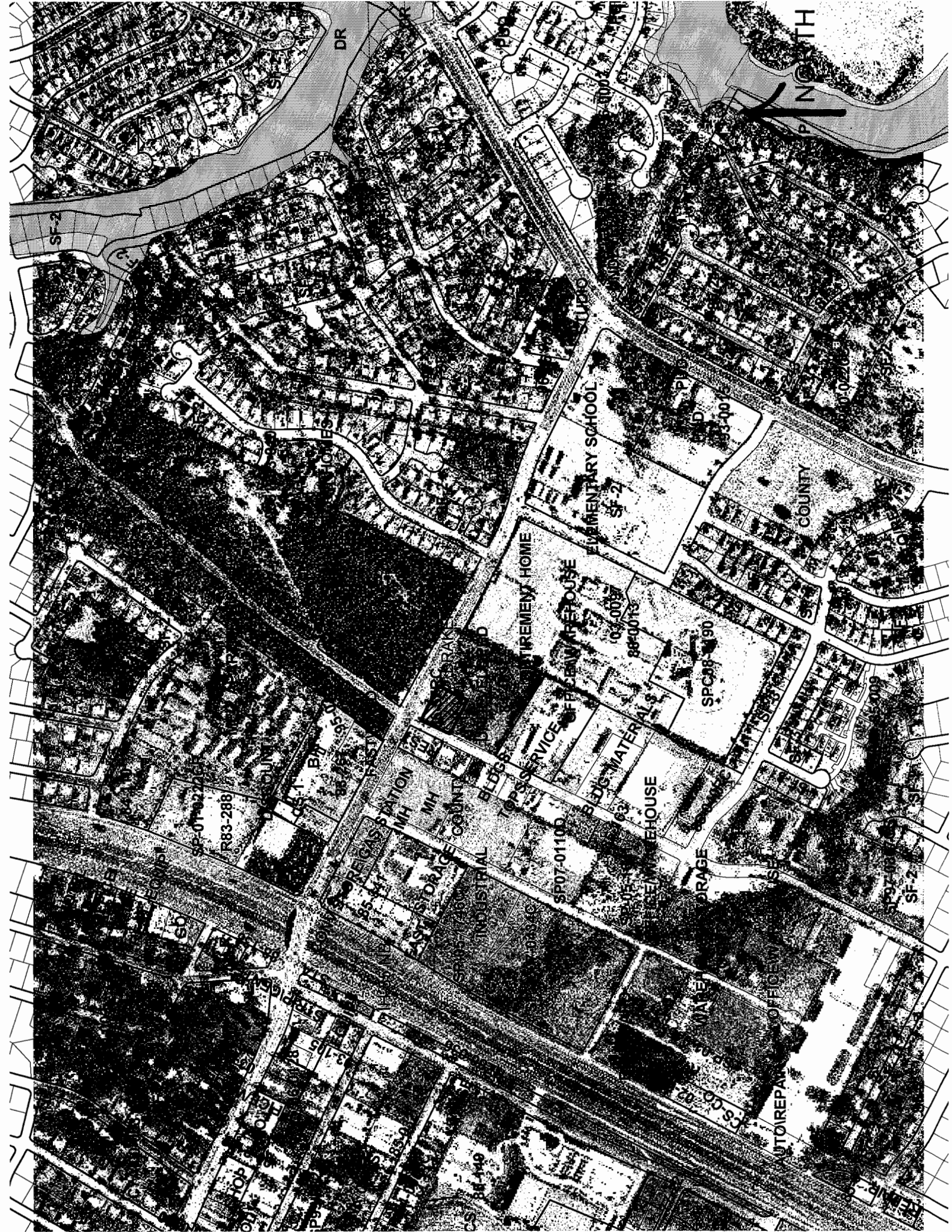
Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property (approx. 220 feet away) in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Compatibility Standards

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

- 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.
- for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.





NORTH

ELEMENTARY SCHOOL

INDUSTRIAL BLDG

STORAGE BLDG

REPAIR SHOP

INDUSTRIAL BLDG

STORAGE BLDG

REPAIR SHOP

INDUSTRIAL BLDG

STORAGE BLDG

REPAIR SHOP

INDUSTRIAL BLDG

1015 E. BRAKER LANE
ZONING INFORMATION SUMMARY
September 24, 2007

Background

The property to be rezoned is located at the southeast corner of E. Braker Lane and Bluff Bend Drive, and is currently within a Limited Purpose Annexation area. It is a 0.75 acre parcel that includes most of Lot 1A and a small portion of Lot 3A, Resubdivision of Lots 1, 2 & 3, Hill's Braker Addition. This parcel is a vacant portion of a larger 5.44 acre site, most of which is located within the 2 mile ETJ, that has received Site Plan approval as a three phase Unified Development (SP-04-0333C). The property to be rezoned is mostly within Phase 2 of the approved Site Plan, and Phases 1 and 3 have already been constructed. As a condition of resubdividing the property, the applicant was required to dedicate 25' of right of way along the E. Braker Lane frontage, to allow for a six land divided arterial. Therefore, the subject property is smaller than when it was previously zoned LO Limited Office and LR Neighborhood Commercial in 1987 (attached). Concurrent with that zoning, a restrictive covenant was prepared (attached) that prohibits access from E. Braker Lane and allows for the City of Austin to rollback the zoning if the use is discontinued.

The property immediately adjacent to the south and east is part of the approved site plan, and has been recently developed with a 40,410 SF furniture warehouse and 9,425 SF multi-tenant commercial center. The property further to the south is zoned SF-2, however, it supports a commercial use. The property further to the east is zoned GO-CO, and is developed as a nursing home facility. There is a small parcel located at the southwest corner of the E. Braker Lane/Bluff Bend Drive intersection that is zoned SF-2, however, it supports an existing restaurant. Most of the remaining property fronting Bluff Bend Drive within the immediate vicinity of the subject, is within the 2 mile ETJ and currently developed with commercial uses such as construction sales and services. The property fronting the north side of E. Braker Lane opposite the subject, is comprised of small, vacant lots zoned SF-2, which are unlikely to be developed for single family use; and further to the north is a larger vacant parcel zoned DR. The property further to the west of the subject property is zoned GR, CS and CS-1, with an SF-2 parcel that supports a commercial use.

Proposed Zoning

The applicant is requesting GR-CO Community Commercial-Conditional Overlay zoning for the property, to allow for a variety of retail, restaurant and other commercial uses. The proposed uses are based on market feedback from the leasing of the newly constructed commercial building located on Phase 3 of the Site Plan. The applicant has worked cooperatively with members of the Northeast Walnut Creek Neighborhood Association (NEWCNA), to reach a mutually acceptable agreement regarding the proposed zoning and termination of the restrictive covenant. This agreement is summarized in the NEWCNA Letter of Support dated September 17, 2007, and the

RICHARD H. CRANK, ASLA

Allowable/Prohibited Uses and Conditions dated July 24, 2007 (attached). The proposed uses are consistent with, or less intensive than, the existing uses immediately surrounding the property and along Bluff Bend Drive; and the proposed zoning provides a reasonable transition between the more intensive IH-35 corridor to the west and the GO-General Office zoning to the east.

Conclusion

The proposed GR-CO zoning and E. Braker Lane driveway access are appropriate for this property for the following reasons:

- The property is located in the Desired Development Zone.
- The proposed zoning is consistent with, or less intensive than, the existing uses surrounding the property.
- Bluff Bend drive is an established commercial street with mostly GR and CS uses, many of which are more intensive than the uses allowed with the proposed zoning.
- Numerous GR uses will be prohibited.
- Drive thru service in conjunction with any restaurant use is prohibited.
- The warehouse and commercial/retail uses adjacent to the property, and the GO use to the east, provide a transition buffer for the existing residential area further east.
- The Single Family zoned lots fronting the north side of E. Braker Lane opposite the property are unlikely to be developed for residential use.
- The proposed zoning has the support of the Northeast Walnut Creek Neighborhood Association.
- The site generated traffic is limited to a maximum of 2,000 tpd.
- Applicant was required to dedicate 25' of right of way for the future Braker Lane MAD 6.
- There are no access issues per COA and Travis County site plan review, and the existing restrictive covenant is obsolete.
- The E. Braker Lane and Bluff Bend Drive intersection is signalized.

NORTHEAST WALNUT CREEK NEIGHBORHOOD ASSOCIATION

September 17, 2007

To Whom It May Concern:

RE: Proposed Rezoning for
1015 East Braker Lane
Austin, TX 78753

Representatives of the Northeast Walnut Creek Neighborhood Association (NEWCNA) have met several times with the Applicant, Mr. Dwain Schuh, and the Applicant's representative, Mr. Richard Crank, to discuss the proposed rezoning of the above-referenced property. Based upon those discussions, NEWCNA and the Applicant reached agreement on certain terms, conditions and prohibited uses shown in the attached document ALLOWABLE/PROHIBITED USES AND CONDITIONS dated July 24, 2007.

NEWCNA supports Applicant's proposed rezoning of the property at 1015 East Braker Lane subject to the attached terms, conditions, and prohibited uses being incorporated into the final proposed zoning ordinance presented for consideration to the Austin City Council. Otherwise, NEWCNA reserves the right to protest the proposed rezoning at such time as it is considered by the City Council.

For any questions concerning NEWCNA's position on this matter, please contact
Mr. Michael Lee
Chairman, NEWCNA Zoning Committee
11602 Oak Haven Cove
Austin, TX 78753
512-468-0891



John E. Isom, President
Northeast Walnut Creek Neighborhood Association

1015 E. BRAKER LANE-REZONING 0.75 ACRES
ALLOWABLE/PROHIBITED USES AND CONDITIONS
July 24, 2007

The applicant is requesting Community Commercial-Conditional Overlay (GR-CO) zoning. The Conditional Overlay will include the following three conditions: 1) uses shown in bold italics are to be prohibited, 2) drive through facilities are prohibited in conjunction with a restaurant use, and 3) the trip generation is limited to a maximum of 2,000 trips per day. The applicant is also requesting that the 1987 restrictive covenant that was granted concurrent with the existing zoning, be terminated, to eliminate the City of Austin initiated rezoning provision, and to allow for access to E. Braker Lane in the approximate location shown on the approved Site Plan (SP-04-0333C).

1) Prohibited Uses: The uses shown in bold italics within the following list of allowable uses are prohibited:

Administrative & Business Offices

Art Gallery

Art Work Shop

Automotive Rentals

Automotive Repair Services

Automotive Sales

Automotive Washing (of any type)

Bail Bond Services

* Business or Trade School

* Business Support Services

Commercial Off-Street Parking

Consumer Convenience Services

Consumer Repair Services

* Communications Services

Drop – Off Recycling Collection Facility

Exterminating Services

Financial Services

* Food Preparation-conditional use

Food Sales

Funeral Services

General Retail Sales(Convenience)

* General Retail Sales(General)

Hotel Motel

Indoor Entertainment

Indoor Sports & Recreation

Medical Offices - not exceeding 5,000 SF of GFA

* Medical Offices - exceeding 5,000 SF of GFA

Monument Retail Sales

Off-Site Accessory Parking

Outdoor Entertainment – cond.

Outdoor Sports and Recreation

Pawn Shop Services

- Personal Improvement Services

Personal Services

Pet Services

Plant Nursery – conditional use

Printing and Publishing

Professional Office

- Research Services

Restaurant (Limited)

Restaurant (General)

Service Station

Software Development

Special Use Historic – conditional use

Theater

Custom Manufacturing – conditional use

Club or Lodge – cond.

College and University Facilities

Communication Service Facilities

Community Recreation (Private)

Community Recreation (Public)

Congregate Living

Counseling Services

Cultural Services

Day Care Services (Commercial)

Day Care Services (General)

Day Care Services (Limited)

Family Home

Group Home, Class I (General)

Group Home, Class I (Limited)

Group Home, Class II

Guidance Services

- Hospital Services (General)

- Hospital Services (Limited)

Local Utility Services

Private Primary Educational Facilities

Private Secondary Educational Facilities

Public Primary Educational Facilities

Public Secondary Educational Facilities

Religious Assembly

Residential Treatment

Safety Services

Telecommunication Tower –1 (allowed if COA not able to prohibit)

Urban Farm