

ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0214 / Tex-Tar Waterproofing

ZAP DATE: January 6, 2009

ADDRESS: 11600 N IH 35 SVRD SB

OWNER: Richard Johnson, 512-491-0608

AGENTS: A.E.C., Inc. (Phil Moncada), 512-627-8815
Jackson Walker, L.L.P. (Katherine Loayza), 236-2259

ZONING FROM: LR

TO: LI-CO

AMENDED TO: CS-CO

SITE AREA: 0.273 acres (11,900 sq. ft.)

SUMMARY STAFF RECOMMENDATION: The staff recommendation is to deny the change from LR (Neighborhood Commercial) district zoning to LI-CO (Limited Industrial Services – Conditional Overlay) combining zoning district. The Conditional Overlay would limit vehicle trips to less than 2,000 per day.

The staff recommendation is to deny the change from CS-CO (General Commercial Services – Conditional Overlay) combining zoning district, as described in the Issues section below.

SUMMARY ZONING AND PLATTING COMMISSION RECOMMENDATION: January 6, 2009: Zoning and Platting Commission approved staff's recommendation to *DENY* LI zoning; was approved by Commissioner Donna Tiemann's motion, Commissioner Betty Baker second the motion on a vote of 6-1; Commissioner Teresa Rabago voted against the motion.

ISSUES: On January 21, 2009, after the Zoning and Platting Commission hearing, the Applicant amended the request from LI-CO to CS-CO. The applicant's proposed Conditional Overlay would:

- Limit vehicle trips to less than 2,000 per day
- Establish a 25' building and parking setback from the residential property west of the site
- Prohibit the following uses: automotive rentals, automotive repair services, automotive sales, automotive washing, bail bond services, commercial off-street parking, congregate living, drop off recycling collection facility, exterminating services, group home class II, pawn shop, residential treatment and vehicle storage
- Limit building height to 40 feet or 3 stories and
- Screen the property from the adjacent residential uses.

Please refer to correspondence and comments in favor and opposition attached at the back of the staff packet.

On May 23, 2008, the property owner was issued a Code Enforcement citation for the operation of a prohibited use in LR zoning, in addition to the absence of a Certificate of Occupancy.

DEPARTMENT COMMENTS: The 0.273-acre site is currently zoned LR (Neighborhood Commercial) district zoning and is located on northwest corner of Interstate Highway 35 and E. Covington Drive. The property has driveway access from the southbound service road of Interstate Highway 35 and E. Covington Drive, to which both ingress and egress access is taken. The site is

surrounded by an Appliance Repair Business to the north, an undeveloped tract to the south, Interstate Highway-35 to the east and single family residences to the west.

The subject property is currently developed with a one story brick building with a canopy that is occupied by Tex-Tar Waterproofing. The existing use is classified as construction sales and services which is not permitted in LR (Neighborhood Commercial) zoning district. This use is conditional in the W/LO (Warehouse Limited Office district) and first permitted in CS (General Commercial Services district). The applicant wishes to change the zoning so that the existing use becomes compliant with the zoning regulations.

The staff recommendation is to deny the requested zoning change and maintain the existing LR zoning because it is adjacent to an established single residential neighborhood to the west. Additionally, similarly situated commercial tracts in the area are also zoned LR and granting more intensive zoning on this site would set a precedent for every other one of these tracts.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LR	Construction Sales and Service
<i>North</i>	LR	Construction Sales and Service
<i>South</i>	LR-CO	Undeveloped Tract
<i>East</i>	Interstate Highway - 35	Expressway
<i>West</i>	SF-1	Large lot - Single Family residences

AREA STUDY: The property does not lie within a designated neighborhood planning area.

TIA: 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]

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

Scofield Farms Residents Assn.
 Austin Northwest Association
 Austin Independent School District
 Home Builders Association of Greater Austin
 Austin Neighborhoods Council
 Walnut Creek Neighborhood Assn., Inc.
 North Growth Corridor Alliance
 Yager Planning Area
 Homeless Neighborhood Organization
 River Oaks Lakes Estates Neighborhood
 Austin Parks Foundation
 League of Bicycling Voters

SCHOOLS

Austin Independent School District
Walnut Creek Elementary School

Dobie Middle School

Lanier High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2008-0229 – Walnut Forest Motel 11506 N. IH-35 SVRD Southbound	GO to GR-CO	Jan. 6, 2009: ZAP approved GR-CO. The CO prohibits the following uses: A DRIVE-THROUGH USE AS AN ACCESSORY USE, AUTOMOTIVE RENTALS, AUTOMOTIVE REPAIR SERVICES, AUTOMOTIVE SALES, AUTOMOTIVE WASHING (OF ANY TYPE), BAIL BOND SERVICES, COMMERCIAL BLOOD PLASMA CENTER, COMMERCIAL OFF-STREET PARKING, COMMUNITY RECREATION (PRIVATE), COMMUNITY RECREATION (PRIVATE), CONGREGATE LIVING, CONSUMER CONVENIENCE SERVICES, FOOD SALES, FUNERAL SERVICES, GENERAL RETAIL SALES (GENERAL), GUIDANCE SERVICES, INDOOR ENTERTAINMENT, OUTDOOR SPORTS AND RECREATION, PAWN SHOP SERVICES, RESIDENTIAL TREATMENT AND SERVICE STATION; LIMITING HEIGHT TO 35 FEET, AND LIMITING VEHICLE TRIPS TO 2,000 PER DAY.	Pending. Scheduled for Council hearing 2/12/09.
C14-05-0085 – Powers 20 11520 N. IH-35 SVRD Southbound	GO to CS	Nov. 15 2005: ZAP approved LR-CO with conditions of: 2,000 Vehicle trips limit, Prohibit Consumer repair services, Off-site accessory parking, Community recreation (public), Guidance services, Private secondary educational facilities, Printing and publishing, Service station, Financial services, Community recreation (private), Congregate	November 2, 2006: CC approved LR-CO with conditions of: 2,000 Vehicle trips limit, Prohibit Consumer repair services, Off-site accessory parking, Community recreation (public), Guidance services,

		living, Hospital services (limited), Residential treatment, College and university facilities, and Drive-in service use is prohibited as an accessory use to a commercial use.	Private secondary educational facilities, Printing and publishing, Service station, Financial services, Community recreation (private), Congregate living, Hospital services (limited), Residential treatment, College and university facilities, and Drive-in service use is prohibited as an accessory use to a commercial use.
C14-88-0138 – Texaco 11300 N. IH-35 SVRD	LR-GR	January 3, 1989: PC granted request with conditions.	January 26, 1989: CC APVD GR-CO; ALL 3 RDGS, EMERG. PASS. Conditions for LR uses, LR site development regulations, except front yard and street side setbacks are limited to 10 feet.

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
IH 35	300'	Varies	Highway	No	No	No
E Covington Dr.	60'	30'	Local	No	No	No

CITY COUNCIL DATE: February 12, 2009

ACTION:

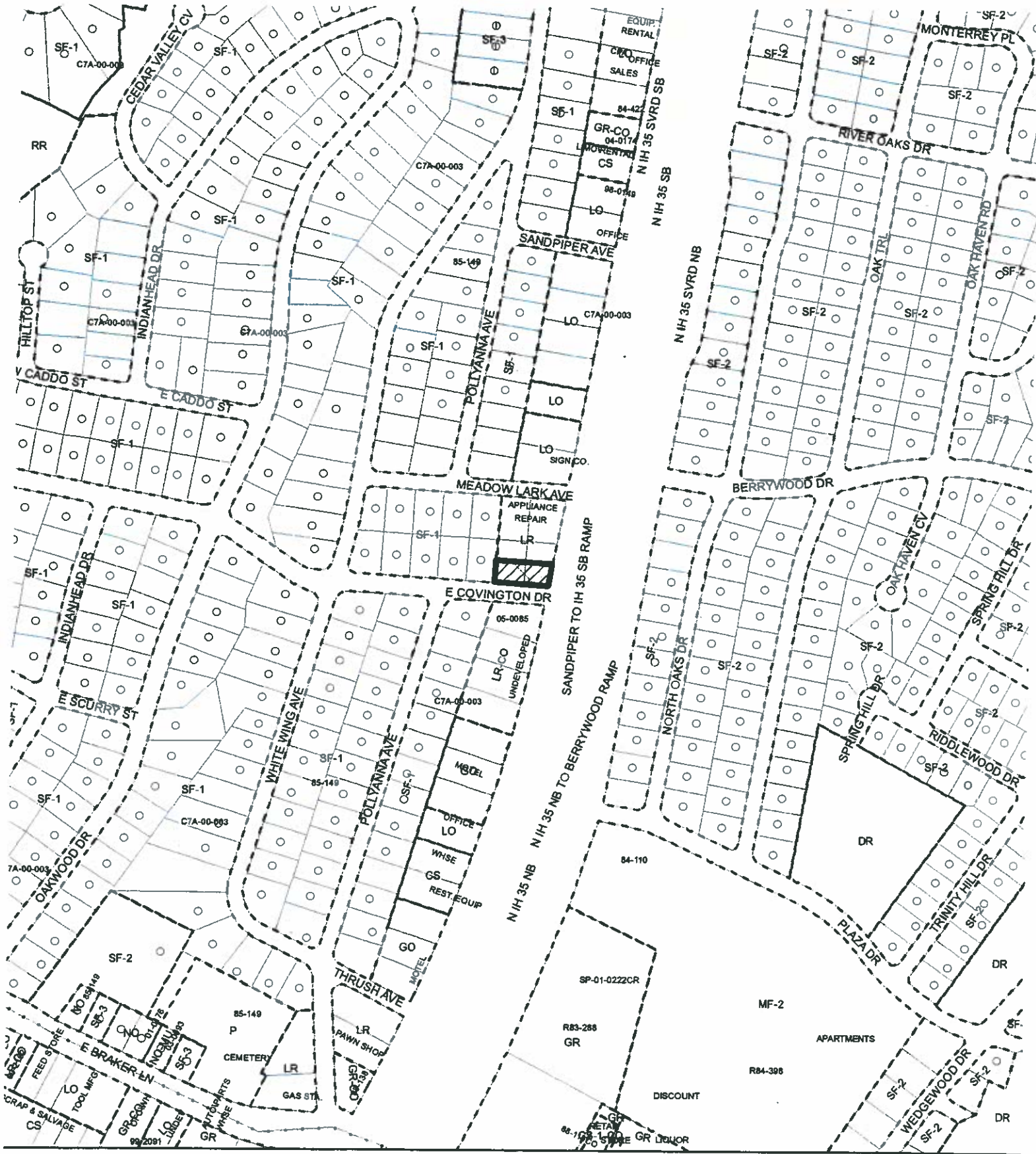
ORDINANCE READINGS: 1st 2nd 3rd




ORDINANCE NUMBER:

CASE MANAGER: Joi Harden

PHONE: 974-2212

E-MAIL: joi.harden@ci.austin.tx.us;



-  **SUBJECT TRACT**
-  **ZONING BOUNDARY**
-  **PENDING CASE**

OPERATOR: S. MEEKS

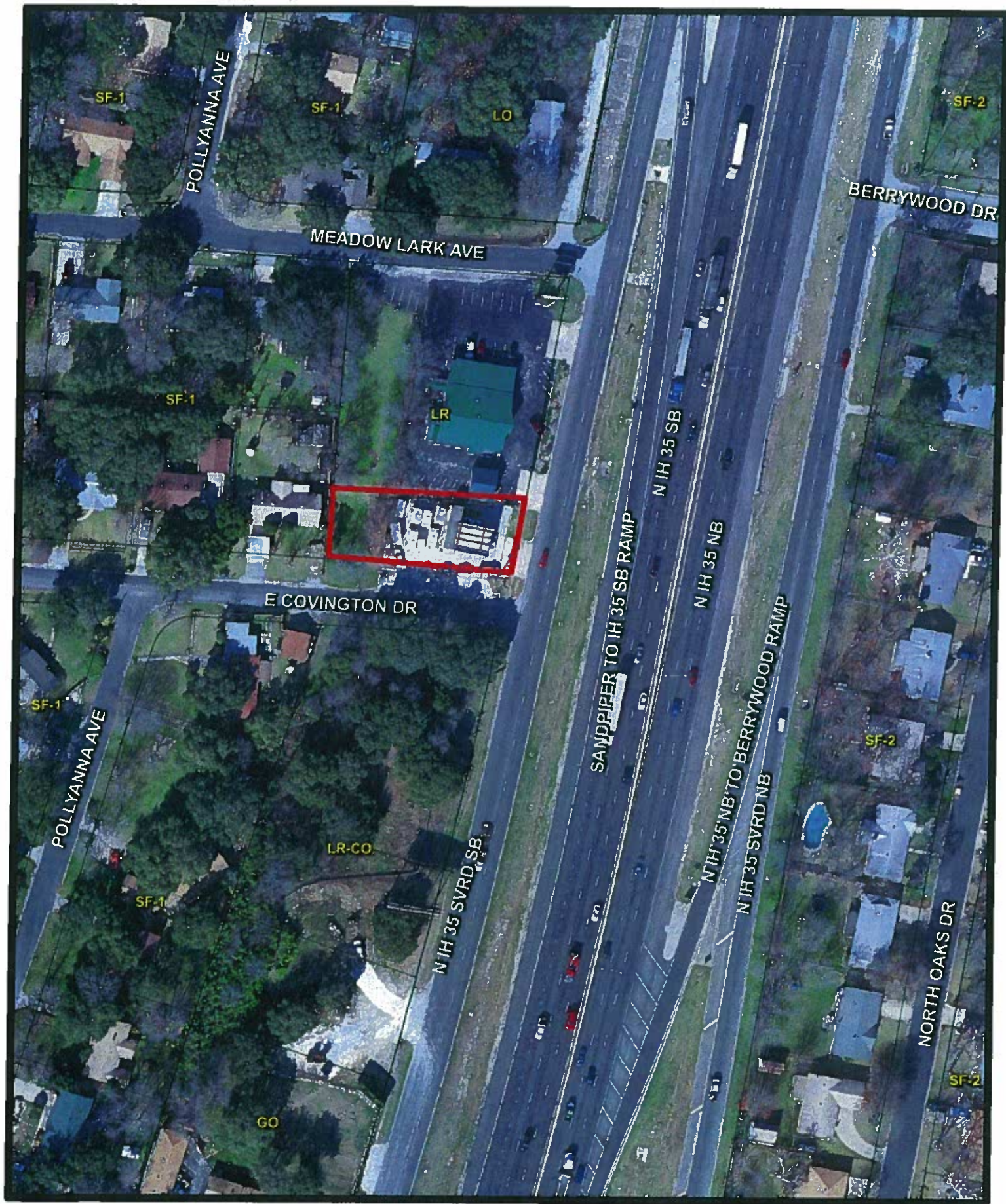
ZONING

ZONING CASE#: C14-2008-0214
 ADDRESS: 11600 N IH 35 SVRD SB
 SUBJECT AREA: 0.273 ACRES
 GRID: M32
 MANAGER: J. HARDEN

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.



1" = 400'



C14-2008-0214 11600 N IH-35 SVRD SB



**From Neighborhood Commercial District Zoning (LR)
to Limited Industrial Services (LI) District Zoning**



SUMMARY STAFF RECOMMENDATION

The staff recommendation is to deny the requested zoning change because it is adjacent to an established single family residential neighborhood to the west. Additionally, similarly situated commercial tracts in the area are also zoned LR and granting more intensive zoning on this site would set a precedent for every other one of these tracts.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

The applicant's request of CS, General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments. Staff's recommendation is to deny the requested zoning change and maintain the existing LR zoning because it is adjacent to an established single residential neighborhood to the west.

- 2. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*

This zoning change would introduce a more intensive commercial zoning adjacent to an established single family residential neighborhood.

EXISTING CONDITIONS

Site Characteristics

The subject property is currently developed with a one story brick building with a canopy that is occupied by Tex-Tar Waterproofing. There is a fence that surrounds three sides of the site. The site is relatively flat.

Impervious Cover

The maximum impervious cover allowed by the LR zoning district is 80% which is a consistent figure between the zoning and watershed regulations.

The maximum impervious cover allowed by the CS zoning district is 95%. However, because the watershed impervious cover is more restrictive than zoning district's allowable impervious cover, the impervious cover is limited by watershed regulations as shown in the table below.

Environmental

The site is not located over the Edwards 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. 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%

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.

Trees will likely be impacted with this rezoning case. Please be aware that an approved rezoning status does not eliminate the requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

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

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

Transportation

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]

A Neighborhood Traffic Analysis may be required to be performed for this project by the Transportation Review staff. Please contact this reviewer at your earliest convenience. LDC, Sec. 25-6-114.

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 relocations and or abandonments required. 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.

Site Plan Review

Any new development may be subject to Subchapter E: Design Standards and Mixed Use for a project located on a Suburban Roadway. Additional comments will be made when the site plan is submitted.

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

- No structure may be built within 15 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 7 feet of the property line.
- A landscape area is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.



JACKSON WALKER L.L.P.
ATTORNEYS & COUNSELORS

Katherine P. Loayza
(512) 236-2259 (Direct Dial)
(512) 236-2002 (Fax)
kloayza@jw.com

February 4, 2009

Mayor Wynn and City Council Members

Re: Rezoning application C14-2008-0214 Tex-Tar Waterproofing
11600 N. IH 35

Mayor Wynn and City Council Members,

Our firm, as well as Phil Moncada, agent, represent Richard Johnson, owner of the above referenced site. We respectfully request your favorable consideration of the rezoning of the subject property from "LR" Local Retail to "CS-CO" Commercial Services Conditional Overlay. The original request for rezoning was modified from "LI" to "CS".

The site is currently used as the office and incidental storage of equipment for Tex-Tar Waterproofing, which is classified as a construction sales and services use according to the Land Development Code. The property was originally developed as a service station, however the use was discontinued and the gasoline storage tanks have also been removed. The site has been vacant for some time until Mr. Johnson purchased the property over one year ago.

The property does not have wastewater service and because of the site size, only 0.273 acres; site development constraints do not make it conducive to a large-scale commercial operation, and therefore will naturally will limit the intensity of the use. Currently, the operations of Tex-Tar Waterproofing involve less than 20 trips per day and no customer generated trips. All of the construction services provided are off-site and no construction related activity is performed on-site. There is no noise, lighting or traffic impact with the use proposed for the site that would affect the adjacent residential neighborhood.

Based upon field verification of the existing uses immediately north and south of the subject property. (refer to attachment), it appears that there are at least nine existing uses between East Braker and Wren Avenue to the north which are uses permitted only in the "GR" or "CS" zoning districts, but they are zoned "GO", "LR" or "LO". Based upon these existing uses, it is apparent that the land use pattern along the frontage road of IH 35 supports the requested "CS" zoning.

In order to ensure that the proposed "CS" zoning is compatible with the surrounding area, we offer the following as a conditional overlay for the proposed rezoning of the 0.273 acre site:

- Limit vehicle trips to less than 2,000 per day
- 25' building and parking setback from the residential property west of the site
- Prohibit the following uses: automotive rental, automotive repair services, automotive sales, automotive washing, commercial off-street parking, drop-off recycling, and vehicle storage, bail bond services, exterminating services, pawn shop, congregate living, group home class II and residential treatment
- Building height 40 feet or 3 stories
- Screening the property from the adjacent residential uses

We have met with the Wayne Tobias, president of the Walnut Creek Neighborhood Association and other association members, but as yet do not have a formal position from the Association regarding the zoning request. We also indicated that we were receptive to including other uses allowed in the "CS" zoning district to be prohibited as well, but have not received any feedback at this time.

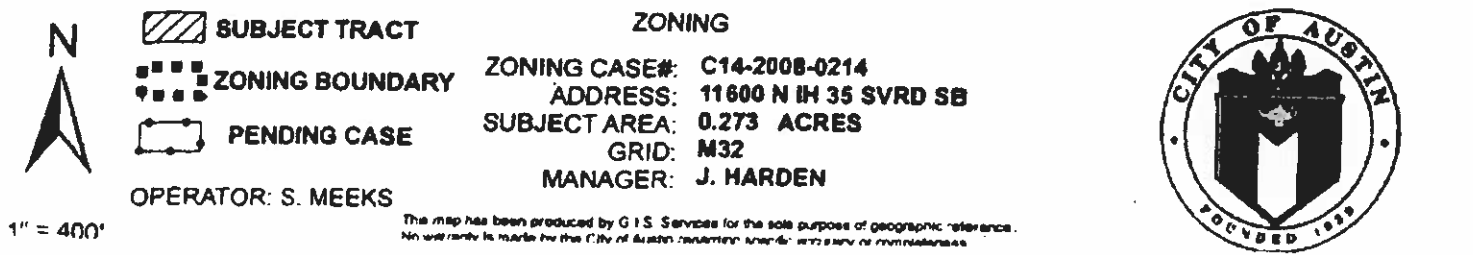
Mr. Johnson has the support of all the adjacent property owners and surrounding property owners for the original "LI" request. By supporting this request for "CS" zoning you will be recognizing the need for small business owners to be able to conduct commercial services uses along a high intensity traffic corridor, while at the same time not negatively affecting the residential neighborhood.

We appreciate your support of this rezoning request and the support of the small business owners servicing the construction industry in Austin. We believe that the requested zoning is appropriate for the site; with the application of the proposed conditional overlay use restrictions, and that the requested zoning reflects the existing land uses along the frontage road of IH 35.

Sincerely,



Katherine Loayza
Land Use Consultant



SF-1

MEADOW LARK AVE

SF-1

LR

WINGTON DR

LR-CO

SF-1

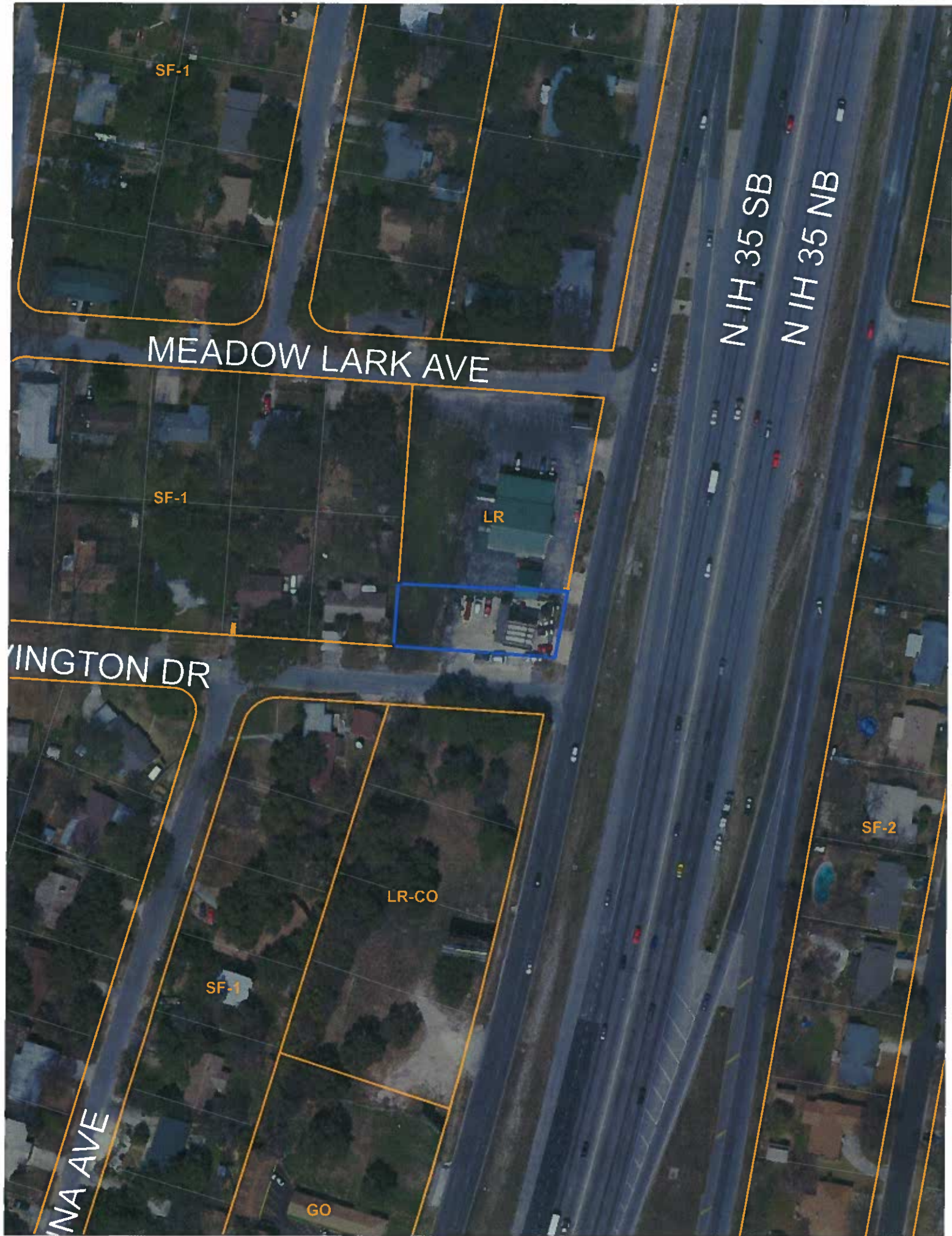
GO

N IH 35 SB

N IH 35 NB

SF-2

INA AVE



Date: 12-12-08

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Jarrell B. Wilkinson

Signature Jarrell B. Wilkinson

Address 11700 North I 35
Austin TX 78753

Are you an adjacent property owner? Yes or No
within 300'

Date: 12-12-08

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Sammy Wilkinson

Signature Sammy Wilkinson

Address 11700 North I 35
Austin TX 78753

Are you an adjacent property owner? Yes or No

within 300'

Date: 12/12/2008

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Esmail Roushan

Signature Esmail Roushan

Address 11606 N. IH 35

Are you an adjacent property owner? Yes or No

Yes

Date: 17 Dec 2008

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Wm & Donna Estes

Signature WM & DONNA ESTES

Address 606 E. COVINGTON DR
AUSTIN TX 78753

Are you an adjacent property owner? Yes or No

Date: 12/17/08

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name MARGARET N. BLISS

Signature Margaret N. Bliss

Address 700 E. COVINGTON DR. AUSTIN 78753

Are you an adjacent property owner? ☒ Yes ☐ No

Date: 1/5/09

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Tim DeLuca

Signature Tim DeLuca

Address 11424 N. IH35

Are you an adjacent property owner? ☒ Yes or No

Date: 1/6/08

I Am
We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name

Gerald W. Horn
GERALD W. HORN

Signature

Address 11515 Pollyanna Ave. Austin Tx 78753

Are you an adjacent property owner? Yes or No

Yes

Date: 1/05/08

We are aware that Tex-Tar Waterproofing located at I1600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Kathleen Ford

Signature Kathleen Ford

Address 14602 Whitewing Ave.

Are you an adjacent property owner? ☒ Yes or No

Date: 1-06-09

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name JOSH MITCHELL

Signature [Signature]

Address ~~11700 MERRITT~~
704 SANDPIPER AVE
AUSTIN TX 78753

Are you an adjacent property owner? Yes or ☒ No

550 FT

Date: 1-5-09

We are aware that Tex-Tar Waterproofing located at 11600 Interstate Hwy 35 North is proposing a zoning change from LR to LI. I do not oppose the zoning change for this project.

Name Travis Wilkes

Signature 

Address 12012 N I 485

Are you an adjacent property owner? Yes or No

600 FT

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. 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 its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. 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.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

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: C14-2008-0214

Contact: Joi Harden,, (512) 974-2122

Public Hearing:

January 6, 2009 Zoning and Platting Commission

Robert L. Self

Your Name (please print) *11570 Oakhurst Austin*

621 NE 14th St OKC OK 73104

Your address(es) affected by this application

Robert

Signature

Date

Comments:

☒ I am in favor
☐ I object

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

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden,}

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-2008-0214

Contact: Joi Harden,, (512) 974-2122

Public Hearing:

January 6, 2009 Zoning and Platting Commission

Your Name (please print) Julie Berg

☒ I am in favor
☐ I object

Your address(es) affected by this application 702 Wren Ave Austin TX 78753

Signature Julie Berg

Date 12/30/08

Comments:

I'm in favor of this change
it will help the area of

Service RD of TH350

good for the Austin City Tax

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

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden,}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Joi Harden,, (512) 974-2122

Public Hearing:

January 6, 2009 Zoning and Platting Commission

Jesse Pava

Your Name (please print)

☐ I am in favor
☒ I object

600 E. Levington

Your address(es) affected by this application

Signature

Date

Comments:

I believe this will negatively affect
traffic volume and air quality of the
house and light pollution.

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

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden,}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Joi Harden,, (512) 974-2122

Public Hearing:

January 6, 2009 Zoning and Platting Commission

Minta Atin

Your Name (please print)

600 E Covington Dr

Your address(es) affected by this application

Minta C. Atin

Signature

Date

Comments:

I don't want any more light industry in my neighbor hood. There is a stream less than 200 ft from my house + I am concerned about potential health effects for that stream + my own garden, + property values. My neighborhood shopping would be welcome; they are already zoned for that purpose. GO a GR zoning would also be O.K.

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Joi Harden,}

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I object